

Social Responsibility during Social Distancing

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CSR in India During Covid 19 Outbreak

How do we change the world? One random act of kindness at a time. – Morgan Freeman.

The concept of Corporate Social Responsibility ("CSR")

is being pursued by corporate entities worldwide. The United Nations Industrial

Development Organisation ("UNIDO"), a specialized agency of the United Nations, whose mission is to promote and accelerate *inclusive and sustainable industrial development in Member States*, states CSR as:

"Corporate Social Responsibility is a management concept whereby companies integrate social and environmental concerns in their business operations and interactions with their stakeholders. CSR is generally understood as being the way through which a company achieves a balance of economic, environmental and social imperatives ("Triple-Bottom-Line-Approach"), while at the same time addressing the expectations of shareholders

and stakeholders. In this sense it is important to draw a distinction between CSR, which can be a strategic business management concept, and charity, sponsorships or philanthropy...." [1]

Corporate Social Responsibility and Triple Bottom Line

The concept of Triple – Bottom – Line ("TBL") has

been extensively discussed by John Elkington in his book *Cannibals with Forks*:

The Triple Bottom Line of 21st Century Business. John Elkington

argues that a company's performance should not only be determined by its profits but also through its adherence to the key principles of TBL, viz. social justice, economic prosperity, and environmental quality. At the broadest

sense, the expression TBL encompasses the entire set of values, processes, ethics and/or practices that a corporate entity must adhere to with the aim of

reducing the damage that might have been caused to the society at large due to

the activities carried out by the company.

The concepts of TBL and CSR go hand in hand, whereby TBL acts as the measure of CSR activities being carried out by a company.

CSR in the Indian perspective

India, being a member of the UNIDO, is no stranger to the aforementioned concepts of CSR and TBL approach. The Companies Act, 2013 (the "Act") vide Section 135 and the Companies (Corporate Social Responsibility Policy) Rules 2014 ("CSR Rules") makes it mandatory for companies meeting certain thresholds to spend a specified percentage of their net profits towards CSR activities. By way of making CSR activities mandatory on part of certain companies meeting the stipulated threshold under the Act, India has become the first country in the world to mandate CSR activities pursuant to an amendment to the legislation.

Brief analysis of the CSR provisions in India

Section 135 of the Act, mandates companies having (a) net worth of INR Five Hundred Crore or more, or (b) turnover of INR One Thousand Crore or more, or (c) net profit of INR Five Crores or more during the immediately preceding financial year to constitute a CSR committee who shall formulate a CSR policy indicating the CSR activities to be undertaken by the company. Sub-section 5 of Section 135 mandates that at least two percent of the average net profits of the company made during the three immediately preceding financial years shall be spent towards CSR activities. The Act, vide Schedule – VII (the "Schedule"), indicates the activities which may be included in the CSR policies of companies to carry out their CSR obligations.

In its attempt to bridge the gap between corporate capitalism and deliberate socialism, the Ministry of Corporate Affairs ("MCA") released the general circular dated 18th June 2014[2] expressing that entries in the Schedule should be interpreted liberally capturing the true sense of the letter and spirit. However, a substantial amount of CSR funds remain unutilized under the guise of a lack of appropriate projects.

A Welcoming Development

In light of the increasing number of cases of COVID-19 & the World Health Organisation's ("WHO") declaration of it as a pandemic, the Government of India has decided to treat COVID-19 as a notified disaster. Further, on 23rd March 2020, the MCA released a General Circular[3] clarifying that funds spent by the corporate houses towards providing aid and succour for combating COVID – 19 shall be eligible to be considered as funds spent for CSR activities.

The MCA further clarifies that the funds may be utilized for activities falling under the item numbers (i) [*promoting healthcare including preventive health care and sanitation*]

and (xii) [*disaster management, including relief, rehabilitation and reconstruction activities*] of the Schedule and shall be interpreted liberally.

This circular has come as a sigh of relief during these tough times and has been welcomed as a commendable step by the MCA towards combating the spread of COVID-19 by several corporate houses. This is an encouraging step by the MCA towards providing an opportunity for the companies

to play an effective role in tackling COVID-19.

CSR, TBL – COVID-19

During these tough times, when nations are under lockdown, economies are falling and common men are losing their jobs, it is of utmost importance on part of companies to adhere to the basic principles of TBL while

carrying out their CSR activities. With the spread of COVID-19 in the entire country, panic and chaos have taken over. Under these circumstances, the role of companies in participating with the government machinery to implement welfare schemes for the needy under the CSR program takes precedence over earning regular profits. Companies may expect to face certain challenges in implementing the CSR activities, however, they must remember that to refuse the

challenge is akin to risking extinction.

Conclusion

It can be aptly concluded that the Indian CSR regime is at the right cusp of defining and adjusting to make the CSR policies of corporate

houses more impactful towards the constant social, political, economic and environmental vicissitudes.

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- [1] https://www.mca.gov.in/Ministry/pdf/General_Circular_21_2014.pdf
 - [2] http://www.mca.gov.in/Ministry/pdf/Covid_23032020.pdf

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