

**COMPANIES ACT2013 AND THE CSR**

**Dr. Anita Sharma Samnol**

Reader, Department of Business Administration, Maharaja Surajmal Institute,C-  
4,Janakpuri,New Delhi,India1100580

**ABSTRACT**

*Companies Act 2013 has been enacted after a journey from the year 2008 to 2013. The 2013 Act has introduced several provisions which would change the way Indian Corporate do business and one such provision is spending on Corporate Social Responsibility activities. CSR which has largely been voluntary contribution by Corporate Law is now made compulsory by inclusion in the law. The Companies Act, 2013 have made an important recommendation by imposing a compulsion on the corporates to spend a minimum amount for the social good. Various sections of the society will be surely benefitted by this mandation. There are many factors which are responsible for this mandation. Some companies are already doing the contribution for public good and Companies Act 2013 makes CSR compulsory to include all the companies in this process. This paper is an attempt to discuss the process of enactment of the Companies Act 2013, present status of the CSR in India*

**Keywords-** Companies Act 2013, Corporate Social Responsibility, Company, Committee, Social Benefit

**“1.Introduction”**

Companies Act 2013 has been finally constituted after long journey from the year 2008 to 2013. The 2013 Act has introduced several provisions which would change the way Indian Corporate do business and one such provision is spending on Corporate Social Responsibility activities. CSR which has largely been voluntary contribution by Corporate Law is now made compulsory by inclusion in the law. The Companies Act, 2013 have made an important recommendation by imposing a compulsion on the corporates to spend a minimum amount

for the social good. Various sections of the society will be surely benefitted by this mandation.

## **“2.The Journey of Companies Act, 2013 “**

**Companies Act 2013 has been passed after a long journey commenced from year 2008 to 2013.**

**Its year wise journey details is as following**

**2008:** The journey of the Companies Act 2013 starts with the introduction of the Companies Bill 2008 on 23rd October 2008 in the Lok Sabha to replace existing Companies Act 1956.

**2009:** On 3rd August 2009 Companies Bill, 2009 after introducing in the Lok Sabha was then referred to the Standing Committee on Finance of the Parliament for examination and report.

**2010:** on 31st August 2010 the Standing Committee on Finance on Companies Bill, 2009 Report was introduced in the Lok Sabha

**2011:** on 14th December 2011 Companies Bill 2011 introduced in the Lok Sabha

**2012:** on 18 December 2012. In the Lok Sabha the Companies Bill, 2012 got its assent.

**2013:** on 8th August, 2013 Companies Bill, 2012 was passed by the Rajya Sabha. The President of India gives his assent to the Bill on 29 August 2013; and the bill becomes Companies Act, 2013

## **“3.CSR under Companies Act 2013”**

Section 135 of the 2013 Act, makes an effort to introduce the corporate social responsibility in Indian corporates by requiring companies to formulate a corporate social responsibility policy and at least some minimum spending on social activities. The Companies Act now add a responsibility and compulsory contribution among corporates. This Act is applicable to any company incorporated in India; whether domestic or a subsidiary of a foreign company.

A company comes under the criteria of Section 135 of the Companies Act, 2013 if it fulfills any of the following three criterias during any financial year:

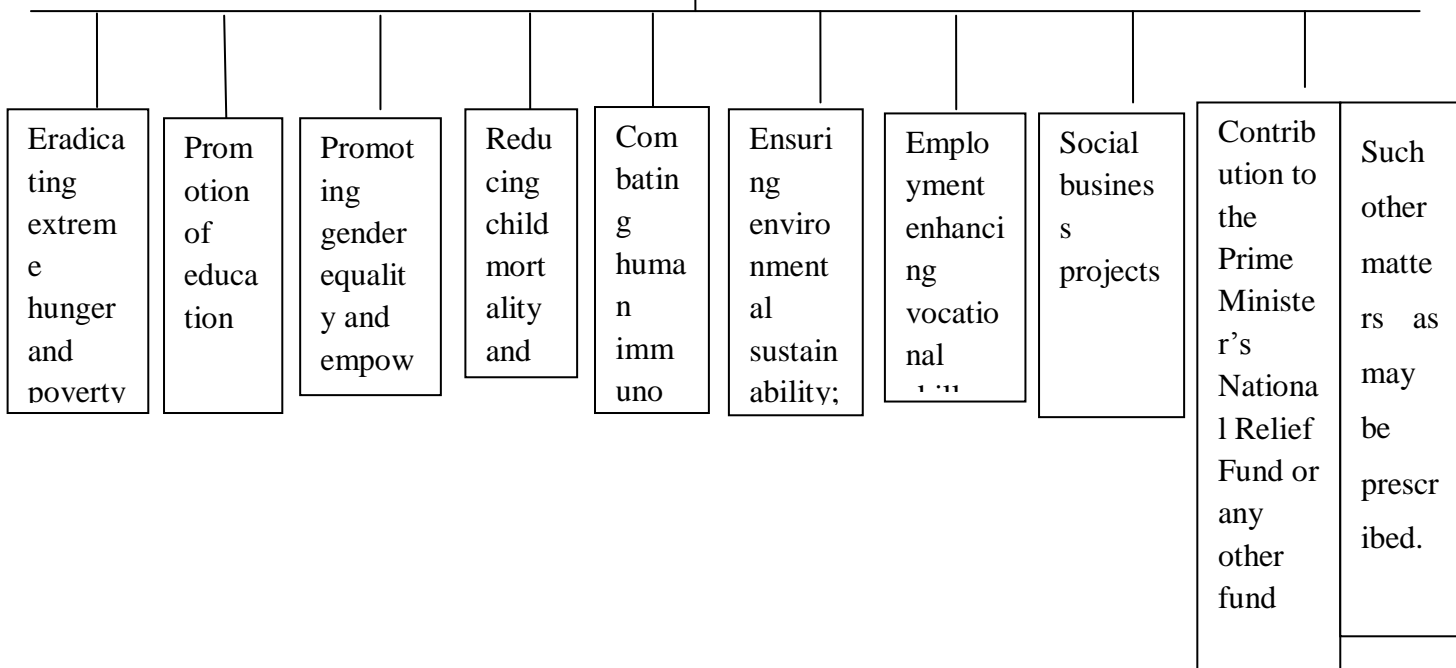
1. company with Rs. 500 crores or more net worth or
2. company with Rs. 1000 crores turnover or
3. company with Rs. 5 crores or more net profit

These companies have to contribute a minimum of 2% of ‘average net profit’ towards CSR.

These companies have also to constitute a Corporate Social Responsibility Committee (CSRC). This committee will formulate and recommend the CSR policy to the Board of Directors of the company. The CSR policy recommended by the committee guide the companies about the amount to be spent and the activities to be taken by the company under CSR. This policy should be duly adhered to by the company and it should also be displayed on the company website. If a company fails to spend the amount as recommended by the committee then it should have to disclose the reasons for the same.

The amount has to be spent on the 9 broad areas (as shown in the Chart below) that result in social good as specified in Schedule VII of the new Act.

**Areas on which CSR to be spent**



The company should give the preference to the local areas and the areas around the company in spending the funds. The company should undertake the activities which are specified in Schedule VI.

Section 134(8) of the new Act provides that if it is not done, the company shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to twenty-five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years or with fine which shall be less than 50 thousand rupees but which may extend to five lakh rupees, or with both.

#### **“4. Present Status of CSR practice in India”**

CSR spending in India is not a new concept for it as the companies like Indian Oil, Tata Group, Aditya Birla Group, Bharat Petroleum Corporation Limited, Maruti Suzuki India Limited, Hindustan Unilever Limited etc., have been spending the amount as CSR for making the public good without any legal restrictions. CSR is also being used by these companies as a tool to build and improve their brand image to give stiff competition to others.

A huge amount of fund is set aside by the companies for the purpose of doing CSR. The CSR activities of these companies include promotion of education, environment protection and healthcare facilities etc. Provision of improved medical and sanitation facilities, building schools houses and empowering the villagers and in process making them more self-reliant by providing vocational training and a knowledge of business operations.

Healthcare industries such as GlaxoSmithKline pay more stress on the health aspect of the society as a whole. They use to organise Health Camps at different places from time to time for free medical check-ups, undertaking health awareness programs, etc.

Social Welfare programs are also promoted by the joined hands of corporates and NGOs.

There are many examples which show the concerns of the corporates about the society like DMRC is operating an Old Age Winter Home, Hindustan Unilever provides information to the people about the benefits of washing their hands with soap for better hygiene, improving public health, ‘All-out’ showing advertisement to fight against Dengue, at HDFC Bank over 5,000 employees contributing around Rs 1 crore a year through payroll giving and several other live examples have been a regular practice by Indian firms.

#### **“5. Impact on Indian companies about CSR mandation”**

It is estimated that a total of 8,000 companies in India would be required to meet the CSR requirements among the 9 lakh active companies in India and the 2% CSR expenditure would translate to companies' spending around Rs 12,000 crore to 15,000 crore annually.

Companies are already taking part in the welfare of the community indirectly by paying the taxes. Companies have to pay around 1/3rd of their profits every year as Direct Taxes; companies also pay wealth tax of 1% of their taxable net wealth; they create employment

opportunities; issue share capital or debentures to convert the public savings in a productive form. In other words they contribute towards public welfare by creating shareholders wealth and paying taxes. Now again to pay under the name of Corporate Social Responsibility proves to be an extra burden on them.

#### **“6. Factors responsible for increased attention on companies role in CSR”**

Many factors and influences have led to increasing attention being devoted to the role of companies for CSR. Some of these factors are:

##### **Environmental Threats and concerns**

Increased commercialization deteriorates the environment in the form of global warming, carbon emission etc. This cost of environment deterioration to be borne by the people of the society globally. The live example of this is Bhopal gas leak at Union Carbide Plant which gives a long term sufferings to the people of Bhopal. Many NGOs come forward and actively engage themselves to reduce these issues like pollution, deforestation, paper wastages, and wastages of natural resources. They emphasize on cleanliness, waste reduction, and recycling etc. Big giants also got engaged in this direction like they make efforts to reduce the per employee energy consumption, make a paper less office, install depollutants, reduce carbon emission etc.

So in order to achieve a balance between Corporate Economic Responsibility and Corporate Social Responsibility the CSR have been mandatory.

##### **Community Development**

India being a developing country need to focus on basic health issues, education, women advancement, poverty reduction, drinking water etc. The country can grow only by making it's due community development by including all these issues in its CSR. For development of the community large corporate which are established in less developed areas or backward areas are require to make a mandatory contribution for the development of their surrounding areas by establishing schools and colleges, health centers, vocational training institutes, adult education centers, programmes for women empowerment, basic facilities such as food water etc.,

### **Unemployment**

Unemployment is the greatest problem of the Indian economy. Being the second largest country in terms of population in the world India is suffering from the severe problem of large scale unemployment. To solve this problem India has to generate much employment opportunities. To convert India from developing to developed country the CSR mandation becomes necessary

### **Cheap & Child Labor**

The exploitation of laborers in the country is the most find out problem of the nation .In order to curb this problem there is a need for the by the Transnational and multinational companies to follow fair labor practices. In many of these companies there doesn't exist Trade Unions to protect the interest of the Labourers due to which they explit the labourers in the form of long working hours than mandated by the law, low wage payment, improper welfare facilieties etc. to insist these companies to follow fair and ethical labour practices the csr compulsion proves to be very helpful.

### **Employees**

Human Resource Asset is the most important asset of the company .No machine or material can work without the human resources .So the organisation should take those measures through which the employee's health, satisfaction and motivation can be maintained.This social responsibility fulfilment is not only for the benefit of the corporation but also for the society as a whole.

### **Share Holders**

Shareholders invest their fund with the objective of increasing the value of their funds The responsibility of increasing the value of an organization lies with the management..Now a days sustainability reporting has also become an important factor in raising the goodwill of any company. So there is also a due pressure on the companies to use not only cost effective methods of operation but also act as a socially responsible organization by using green technology. There should be a proper allocation of budget for CSR also.

### **Corporate Governance**

The management of every organization should conduct the business of honestly, legally and with a high degree of integrity. It calls for observance of rules and procedures in an honest manner. There should be a perfect transparency in carrying out the organisation's business, proper reporting without any manipulations and following the ethical practices is the demand

of the time. There has been surging demand from various stake-holders and civil society groups for enhanced level of disclosures. The corporate response to this demand has not been up to the mark and there is still much to be done. It is imperative to observe transparency in conducting business as a part of Corporate Governance and also to determine accountability in a responsible manner. The concept of Corporate Governance has largely been responsible for creating corporate conscience, corporate citizenship and achieve a sustainable responsible business which can also be called social performance or CSR.

### **Business Ethics**

There is a need of following ethical practices for every organization. The organisation for adopting ethical code of conduct an organization should compare itself with the champion of the market with good business ethics. To become successful in the long run the company should adopt ethical practices such as fair labor practices, responsible sourcing, creating consumer awareness, up-holding workers' rights etc. The company should make an atmosphere of mutual trust through which its brand value also increases in the market.

### **Globalisation**

Due to the increased cross border transactions and global supply chains every economy gets concerned about the impact of this globalisation on the issues related to human resource management practices, environmental protection, and health and safety, among other things. CSR can play a vital role in detecting how business impacts labour conditions, local communities and economies, and what steps can be taken to ensure business helps to maintain and build the public good.

### **Increased Goodwill**

CSR can act as an effective business tool by providing surety to the company from business disruptions, increasing efficiency, opening up new opportunities increased Brand value and company goodwill. .

### **Sustainable development**

Humankind is using natural resources at a faster rate than they are being replaced. If this continues, future generations will not have the resources they need for their development. In this sense, much of current development is unsustainable-it can't be continued for both

practical and moral reasons. CSR is an entry point for understanding sustainable development issues and responding to them in a firm's business strategy.

### **“7.Conclusion”**

Although Companies Act 2013 has taken a long time for its final constitution but it seems to be in the benefit of the society as a whole. Some Companies in India are already contributing for the benefit of the public without any compulsion or any restriction but others are not. In order to make all the companies to contribute for the social good Companies Act 2013 makes it compulsory. Some companies feel that it is an extra burden on them as they are already paying the Direct Taxes and Wealth taxes. They also put the point that they create many employment opportunities and convert the wealth of the people in capital investments. So they are already doing many things for the benefit of the public. But there are many factors which show that to make corporate social responsibility compulsory will be very beneficial for the whole community.

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