



CORPORATE SOCIAL RESPONSIBILITY: AN ANALYSIS OF HOW THINGS HAVE TRANSPIRED ACROSS YEARS OF MANDATORY CSR

Hari Krishna Rajput, Assistant Professor of Law
Parul Institute of Law, Faculty of Law, Parul University, Vadodara

ABSTRACT:

While there is no universally accepted definition of Corporate Social Responsibility, it can be described as the contribution of the corporate houses towards the society in order to compensate for the impacts they have and profits they reap from the society. CSR is a holistic approach, integrated with core business strategy for addressing social and environmental impacts of the business. With the implementation of the Companies Act, 2013, India became the first country to make CSR mandatory. The implementation of the Act is done with the intent to achieve basic ideals on which the concept of CSR is based and to create an environment in which every corporate house adheres to the expectations which are made of them by the society. Before the implementation of the act, the companies were contributing significantly to the economic development of the nation but their contribution to the society remained within philanthropic limits. The act made it compulsorily for the companies to participate in overall development of the Nation. There exists a vast undiscovered niche for the development of society to be done by the means of CSR activities. There is a need to regulate these activities properly so as to widen the scope of guidelines laid by the Indian Companies Act, 2013. It is very necessary that the companies not falling in the category of the ones required to discharge Corporate Social Responsibility compulsorily, be made to participate in the social development of the country. The study determines various shortcomings of the act and ways to overcome them in order to derive suggestions which have the potential to increase the efficiency of the act and also make companies to take the CSR activities not as a mere compulsion but on a voluntary basis.

Keywords: Corporate Social Responsibility; Companies Act, 2013; Community Development; Compensate; Shortcomings.

1. Introduction:

Corporate Social Responsibility refers to the social expectations made of business houses for the impacts they have on the society. Although there do not exist a universally accepted definition of Corporate Social Responsibility, yet it can be described as the social obligations on the part of corporate houses and the compensation for the impacts of their activities on the society at large. The primary idea behind Corporate Social Responsibility can be said to be the sharing of profit that these companies earn not only with the share holders but also with all the stakeholders in general. The roots of this can be traced to lie in the philanthropic activities, the corporate houses indulged in like donations, charity etc. This along with being a management concept is also a holistic approach to how the corporate societies discharge their responsibilities on the social front and it is majorly based on the principle of give and take.

ISSN 2454-308X





2. Objectives:

- a. To discover various areas covered by CSR activities.
- b. To suggest areas of expansion under CSR activities.
- c. To unearth measures to implement CSR norms effectively.

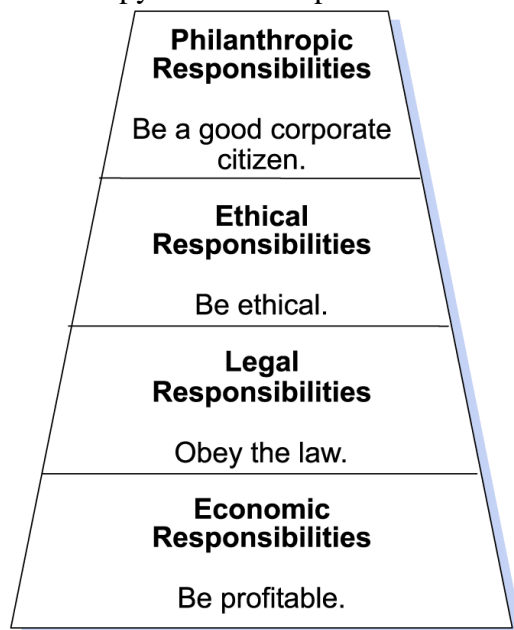
3. Research Methodology:

The nature of research is descriptive and analytical. Secondary and electronic resources have been largely used to gather information and data about the topic.

4. Definition:

In the words of UNIDO “Corporate Social Responsibility is a management concept whereby companies integrate social and environmental concerns in their business operations and interactions with their stakeholders. Corporate Social Responsibility is generally understood as being a way through which a company achieves a balance of economic, environmental and social imperatives, while at the same time addressing the expectations of shareholders and stakeholders. In this sense it is important to draw distinction between which can be a strategic business management concept, and charity, sponsorship or philanthropy. Even though the later can also make a valuable contribution to poverty reduction, it will directly enhance the reputation of a company and strengthening its brand, the concept of Corporate Social Responsibility clearly goes beyond that”.

The modern definition of Corporate Social Responsibility can be drawn from Archie Carroll’s pyramid of Corporate Social Responsibility.



Source: Carroll (1996)

According to this a company has primarily four types of responsibilities, the first and the most important one is economic responsibility i.e. to be profitable. Next comes the legal responsibilities which means they must abide by the laws set forth by the society. The third one is ethical responsibility that refers to do what is right even when the law remains silent over some issue. Fourth is philanthropic responsibility, this is best described by the resources contributed by the corporations towards social, cultural and educational recreational purposes.

In India Corporate Social Responsibility has been traditionally seen as a philanthropic activity. It was an activity that was performed and not deliberated. It is clearly visible that Corporate Social Responsibility had a national character encapsulated within it, whether it was endowing institutions to actively participate in freedom struggle or embedded in the idea of trusteeship. In the view of most of the observers the practice of Corporate Social Responsibility in India still remains within philanthropic space but has moved out



of institutional building to community development through various projects. This is becoming more and more strategic rather than being purely philanthropic.

5. Making Corporate Social Responsibility Compulsory: Section 135 The Companies Act, 2013

In the light of widespread expansion of corporate houses and a rapid increase in their turnovers and profits that has been observed in the past few decades, in order to further strategize the concept of Corporate Social Responsibilities and to bring it out of philanthropic space the undertaking of Corporate Social Responsibilities has been made compulsory by the Indian Companies Act of 2013, which got implemented in the year 2014.

Section 135 of Indian Companies Act, 2013 made it mandatory for certain categories of companies to undertake CSR activities. The step was set forward in order to increase the participation of well doing corporate houses in the overall development of the nation.

The specifications of section 135 are as follows:

- (1) Every company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during any financial year shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director.
- (2) The Board's report under sub-section (3) of section 134 shall disclose the composition of the Corporate Social Responsibility Committee.
- (3) The Corporate Social Responsibility Committee shall,—
 - (a) formulate and recommend to the Board, a Corporate Social Responsibility Policy which shall indicate the activities to be undertaken by the company as specified in Schedule VII;
 - (b) recommend the amount of expenditure to be incurred on the activities referred to in clause (a); and
 - (c) monitor the Corporate Social Responsibility Policy of the company from time to time.
- (4) The Board of every company referred to in sub-section (1) shall,—
 - (a) after taking into account the recommendations made by the Corporate Social Responsibility Committee, approve the Corporate Social Responsibility Policy for the company and disclose contents of such Policy in its report and also place it on the company's website, if any, in such manner as may be prescribed; and
 - (b) Ensure that the activities as are included in Corporate Social Responsibility Policy of the company are undertaken by the company.
- (5) The Board of every company referred to in sub-section (1), shall ensure that the company spends, in every financial year, at least two per cent. of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its Corporate Social Responsibility Policy:



Provided that the company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for Corporate Social Responsibility activities:

Provided further that if the company fails to spend such amount, the Board shall, in its report made under clause(o) of sub-section (3) of section 135, specify the reasons for not spending the amount.

5.1 Analysing Section 135 ‘CRITICALLY’

Although section 135 is well implemented in terms of rule of law yet there exists a wide range of shortcomings associated with its different clauses and sub-sections.

First amongst these is the absence of a well laid and concrete definition of Corporate Social Responsibility. The problem gets even more complicated because of the extremely vast scope of CSR.

Second is schedule VII, which lays the list of activities which companies can undertake as a part of their CSR policy. Sub clause 3(a) of section 135 states that the CSR committee shall indicate these activities as specified in schedule VII, which means that if a company undertakes an activity not falling under the scope of schedule VII then it would not qualify as a CSR activity. The problem gets more intricate because of the narrow scope of schedule VII as it takes into account only nine activities that amount for CSR activities. For instance the schedule do not include any micro level activity and a large variety of macro level activities are also kept outside the scope of this schedule for example activities like award functions, awareness campaigns about ill effects of drugs and liquor etc do not count as a CSR activity. This creates a ground of conflict between the company and the state regarding what counts for CSR and what does not.

The next major shortcoming of the section can be broadly based categorization of the companies done under this section. The said classification of companies can be chained from two different fronts. Firstly, why the companies with a net worth of rupees 400 crores or with a turnover of 900 crore or earning a profit of rupees 5 crore be not considered as a big company and hence why aren't they liable to compulsorily undertake CSR activities.

Secondly, as the said section creates a classification of the companies it is necessary that this classification is in compliance with article 14 i.e. Equality before law. The Supreme Court has laid following two tests for any classification to be held valid under article 14.

- i. The classification must be based on an intelligible differentia i.e. the groups created through the classification must be easily distinguishable from each other.
- ii. The classification done must have a nexus to the object sought to be achieved by the act.

The classification of companies done by this section no doubt satisfies the first test but it fails largely on the second test. The purpose of this section is to ensure that ‘Corporate entities contribute meaningfully towards the growth and prosperity of the country’. But we do not find any satisfactory explanation to how these figures to categorise companies have been reached at or why only these companies be made liable to carry out CSR activities compulsorily.



Fourth major issue with this section is that it do not suggest any organization/institution to act as a regulatory body or the CSR activities, which can independently keep a check on the companies that they are complying with the provisions of the section or not while carrying out CSR activities.

6. Studying CSR activities of large scale companies:

The large and medium scale companies in India are undertaking Corporate Social Responsibility on a large scale in accordance with clauses of section 135, the brief study of which has been done in order to discover the areas in which the major development has taken place with respect to Corporate Social Responsibility and the ones deprived of such activities.

6.1 Reliance Industries Limited: It is an Indian conglomerate holding company which owns businesses across India engaged in energy, petrochemicals, textiles, natural resources, retail and telecommunications. Reliance is the most profitable company in India, the second-largest publicly traded company in India by capitalization and the second largest company in India as measured by revenue. The RIL has undertaken several activities in the field of Corporate Social Responsibility in various areas quite actively which are as follows:

6.1.1 Education:

- Promoting primary and secondary education
- Enabling higher education through merit cum means scholarships, including for differently abled across the country.
- Using sports as a tool for development of students in both urban and rural settings
- Promoting higher education including setting up and supporting universities
- Skill development and vocational training

6.1.2 Healthcare:

- Primary, secondary and tertiary care facilities
- Conducting need based health camps and providing consultation, medicines etc.
- Working on maternal and child health
- Behavioral change for improved mother and child health
- Improving healthcare delivery through innovative outreach programmes
- Working for the visually impaired
- Working in the areas of Communicable and non-communicable diseases
- Using technology for training, competency evaluation and clinical decision support for medical professionals with a view to improve quality of healthcare

6.1.3 Rural Transformation:

- Supporting Farm and non-farm livelihoods
- Improving water conservation and rain-water harvesting



- Developing community based initiatives like VFAs and producer companies towards building capacity of the community and ensuring sustainability.
- Using technology towards delivering need based information for improving quality of life.
- Improving food security and enhancing nutrition
- Developing Community infrastructure

6.1.4 Environment:

- Ecological sustainability
- Promoting biodiversity
- Conservation of natural resources
- Maintaining quality of soil, air and water
- Promoting renewable energy
- Developing gardens and river fronts

6.1.5 Protection of national heritage, art and culture:

- Working towards protecting and promoting India's art, culture and heritage through various promotional and developmental projects and programmes.
- Support and promotion of artists and craftsman
- Promotion and preservation of traditional art and handicraft
- Documenting India's rich heritage for the benefit of future generations

6.1.6 Disaster Response:

- Building capacities of local communities to respond to disasters
- Developing expertise and resources to respond to disaster

6.2 The Coca-Cola Company: It is one of the largest beverages company in the world which is based in Atlanta, Georgia. The company has expanded dramatically in the entire Indian sub-continent and hence is well established in India with 57 packing and bottling centers. The company is undertaking CSR activities on a large scale in order to comply with the section 135 of Indian Companies Act, 2013. Various fields in which Coca-Cola is working significantly to discharge its Corporate Social Responsibilities are as follows.

6.2.1 Water:

- Water Conservation
- Rainwater Harvesting
- Recharge Shafts
- Water purification projects in Gujarat and Maharashtra

6.2.2 Packaging and recycling:

6.2.3 Healthcare:

- Health checkups, medicines and related education to rural communities.
- Funding polio eradication camps



- Organizing blood donation camps
- 24 hours emergency services for children
- Hepatitis B eradication camps, eye checkup camps, malaria eradication etc.

6.2.4 Education:

- 2000 Schools for children
- Jagriti Learning Centre providing education to around 1800 children near the bottling factory in Pune.

6.3 Tata Group: The Tata Group is an Indian multinational conglomerate headquartered in Mumbai, India. It was founded in 1868 and gained international recognition after purchasing several global companies. It is one of India's largest conglomerates. In 2014-15, the revenue of Tata companies, taken together, was \$108.78 billion. These companies collectively employ 611,794 people. Each Tata company or enterprise operates independently under the guidance and supervision of its own board of directors and shareholders. There are 30 publicly-listed Tata enterprises with a combined market capitalization of about \$113.09 billion (as on 16 September 2015). The group has been functioning actively on the social front with a vision that the main purpose of any business is to serve the people and cater their needs. The group is contributing to the society in various different ways as given.

6.3.1 Tata Steel Tata Steel has adopted the Corporate Citizenship Index, Tata Business Excellence Model and the Tata Index for Sustainable Development. Tata Steel spends 5-7 per cent of its profit after tax on several CSR initiatives.

6.3.2 Self-Help Groups (SHG's) Over 500 self-help groups are currently operating under various poverty alleviation programs; out of which over 200 are engaged in activities of income generation thorough micro enterprises. Women empowerment programs through Self-Help Groups have been extended to 700 villages. From the year 2003 to 2006, the maternal and infant survival project had a coverage area of 42 villages in Gamharia block in Seraikela Kharsawa and a replication project was taken up in Rajnagar block. For providing portable water to rural communities 2,600 tube wells have been installed for the benefit of over four Lakh people.

6.3.3 Supports Social Welfare Organizations: Tata Steel supports various social welfare organizations. They include;

- Tata Steel Rural Development Society
- Tribal Cultural Society
- Tata Steel Foundation for Family Initiatives
- National Association for the Blind
- Shishu Niketan School of Hope
- Centre for Hearing Impaired Children
- Indian Red Cross Society, East Singhbhum



6.3.4 Healthcare Projects:

- Tata Steel Centenary Project
- Immunization and childcare,
- Plantation activities
- Creation of awareness about AIDS and other healthcare projects

6.4 Tata Motors :

6.4.1 Pollution Control:

- CNG version of buses and passenger car, the Indica.
- Vehicles with Euro norms
- Emission control technology with U.S.A.

6.4.2 Restoring Ecological Balance:

- Planted 80,000 trees
- 2.4 million trees in Jamshedpur region
- half a million trees in Poona Region
- Treated water conserved in form of lakes

6.4.3 Employment Generation:

- Encouraging industrial cooperatives
- Tata Motors Grihini Social Welfare Society

6.4.4 Srishti Welfare Centre at Munnar, Kerala:

- The DARE School: Training in basic academics and self help skills
- The DARE strawberry preserve unit.
- Athulya: Handmade paper unit and stationery making
- Aranya: Training in natural dyeing

6.4.5 Tata Chemicals Society for Rural Development:

- Agricultural development
- Animal husbandry
- Watershed development
- Education
- Rural energy
- Women's programs
- Relief work

6.4.6 Tata Relief Committee: Provides relief in disaster affected areas

- Instant relief measures
- Rehabilitation programs

6.4.7 Tata Health Infrastructure:

- Tata main hospital at Jamshedpur
- ICU in Joda and Balangpur
- CHC in Bari and Kuhika



- Hospitals in Gobarghati, sukinda, joda, belpahar, belipada and bamnupal
- Lifeline Express- the hospital on wheels
- Mobile health clinics
- Centre for hearing impaired children

6.5 The Mahindra Group: is an Indian multinational conglomerate headquartered at Mahindra Towers in Mumbai, India, with operations in over 100 countries around the globe. The group has a presence in aerospace, agribusiness, aftermarket, automotive, components, construction equipment, defence, energy, farm equipment, finance and insurance, industrial equipment, information technology, leisure and hospitality, logistics, real estate, retail, and two wheelers. It is considered to be one of the most reputable Indian industrial houses .Mahindra group ranks no. 1 in the field of corporate social responsibility, the company is significantly contributing its part to the society and is actively undertaking various CSR activities in diversified ways which are as follows.

6.5.1 K.C. Mahindra Education Trust:

- Education across age groups and income strata
- Provide grants, scholarships and loans

6.5.2 Mahindra Academy:

- Schools near factories for employees' children
- Benefitting communities around

6.5.3 Project Nanhi Kali:

- Girls' Education
- Education to 32,000 underprivileged girls

6.5.4 Mahindra Pride Schools:

- Two Schools
- Empowerment of youths from SC/ST category
- Placement of 2000 students at a monthly salary of Rs. 9000

6.5.5 Disaster Relief:

- Sends vehicles in disaster hit areas for relief activities
- Supplying aids and manpower for relief operations
- Financial assistance in relief and rehabilitation activities

6.5.6 School adoption programmes.

6.5.7 Search for Talent Scholarship

6.5.8 Community Healthcare:

- Medical support to poor and needy communities.
- Supports patients of severe injuries and burns
- Cancer relief centers

6.5.9 Transformation and Beautification of Gardens

- Beautification of SHIVAJI GARDEN



- Transformed Traffic Island Garden in Mumbai

6.5.10 Reducing CO₂ emissions:

- BIJLEE-Battery operated three wheeler

6.5.11 Project Hariyali:

- Planted a million trees annually on a regular basis

7. Observations:

From the study of said examples it is clear that the big business houses falling in the criteria of section 135 of The Indian Companies Act, 2013 are contributing significantly to the social issues and are addressing various problems of the society in various ways but the scope of such activities is very much limited to fields like education, healthcare, disaster management and environment.

The companies are taking up activities that have a narrow vision thus exhibiting casual attitude towards various issues addressed.

As the law remains silent over the role that the SMEs have in the field of CSR, a very less contribution is observed from them toward social issues.

The impact of CSR activities and the development taking place because of them is concentrated to some of the geographical locations.

8. Inference and Suggestions:

On the basis of critical analysis of section 135:

The CSR must be properly defined in the said section so as to clearly lay out the scope of Corporate Social Responsibility and thus making it more effective for the social development of the nation.

It is very much needed that the schedule VII be made wider in terms of the activities suggested which counts for CSR so as to make it slightly company friendly and to give companies some liberty in terms of how and where to spend the funds meant for CSR activities.

The classification must be so done that the ideals of equality are not on stake and provision should be made so that the companies falling out of the scope of this section narrowly be made to participate in undertaking CSR activities actively.

On the basis of CSR activities of large scale companies.

As it has been observed that the scope of issues undertaken by the companies in order to discharge their responsibilities is very narrow, it is necessary to widen the scope further by compulsorily assigning them tasks related to the fields of technological advancements, aiding the government projects, financing development projects as construction of roads, reservoirs etc. It is also important that companies do not overlook these activities as a mere compulsion which means that they should understand that it is actually their responsibility to compensate for the adverse effects they are making on the society and thus willfully undertake these activities.

These activities should be undertaken with a long term vision so that with the outcome of such activities society is benefitted in a significant way and not just symbolic.



Keeping in line with the provisions of the section 135 the companies' focus on undertaking activities in their own localities or neighborhood, here the irony is that most of the corporate houses are located in the close vicinity of each other and in same geographical locations or say states. This results in the concentration of development due to CSR activities in particular geographical areas and these localities are already doing quite well in terms of employment and economic quotients because of presence of these big companies. Thus it is necessary to distribute and diversify the activities in the areas which are deprived of industrial and corporate development, the areas which rely on agricultural activities are the ones which require the focus of CSR activities as these are not very much independent economically. Hence the Corporate Social Responsibility needs to be regulated and coordinated appropriately so that the funds allocated for these activities are appropriately used to cover the maximum area.

The Small and Medium sized Enterprises can come together collectively by forming a group of several enterprises so as to undertake activities addressing various social issues. This will make the SMEs which do not fall under compulsory CSR to contribute their part to the society in a remarkable way.

9. References:

- www.tatasteel.com/corporate/pdf/CSR-Policy.pdf
- www.mahindra.com/resources/pdf/csr/CSR-Policy.pdf
- www.ril.com/.../d5fd70ef.../Corporate-Social-Responsibility-Policy.aspx
- <https://en.wikipedia.org>
- [http://www.unido.org/what-we-do/trade/csr/what-is-csr.html#pp1\[g1\]/0/](http://www.unido.org/what-we-do/trade/csr/what-is-csr.html#pp1[g1]/0/)
- www.mca.gov.in/Ministry/pdf/CompaniesAct2013.pdf
- oikos-international.org/wp.../oikos_Cases_2009_Coca_Cola_India.pdf
- iosrjournals.org/iosr-jbm/papers/vol3-issue5/D0351727.pdf
- In Re: Special Courts Bill, 1979, AIR SC 478.
- *Infra* note 23.
- *Supra* note 8.
- Clause 149(5), Companies Bill, 2011