
UNIT 2 CSR IN INDIA : THE COMPANIES ACT, 2013

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2.1 INTRODUCTION

Dear Learners, in the previous unit, you have read about the evolution and meaning of CSR, its benefits and drivers. CSR has evolved in different countries during different times. In this unit, we will concentrate on the evolution of CSR in India. India is the first country in the world to legally mandate CSR. The Companies Act, 2013 has rules regarding CSR. According to Section 135 of the Companies Act, the companies of a certain turnover/net profit/ are mandated to spend 2 percent of their average net profit for past 3 years for CSR. In this unit, we will read in detail about the history of CSR in India, different models of CSR operating in India and how the legislation on CSR evolved in India. This unit aims to help you to understand the evolution of CSR in different stages of India's development

2.2 OBJECTIVES

After reading this unit you will be able to

- Discuss the history of CSR in India
- Explain the provisions of Section 135 of Companies Act, 2013
- List out the CSR activities that are mentioned in Schedule VII of the Companies Act

2.3 HISTORICAL BACKGROUND

THE PHASES OF DEVELOPMENT OF CSR IN INDIA

The reference of CSR is rooted in the Indian value systems dating back to the Vedic period. The history of CSR dates back to ancient history where religious philosophy

governed philanthropic giving. **According to Rigveda**, the wealthy should plant trees for the society, because doing so will make them proud of themselves both now and in the afterlife. **According to Atharva Veda**, one should amass wealth with a hundred hands and distribute it with a thousand hands. **According to the Yajur Veda**, one should enjoy prosperity with detachment and not cling to it because it is shared by everyone and not solely yours. Thus, the riches ought to be put to good use for society. In order to achieve *Moksha*, it was necessary for everyone on earth to live in harmony. According to Manu Smriti, the nature of business should be for the long-term benefit of both the firm and society. It also states that the methods used to earn riches should be consistent with principles of Dharma. Religious giving is also mentioned in other religions in the form of *zakat* among Muslims and *tieth* among Christians. The religious institutions used to serve the poor through temple trusts, waqfs, gurudwaras and churches. Pushpa Sundar, in her book 'Beyond Business: From Merchant Charity to Corporate Citizenship' gives an account of philanthropic practices in India. Drawing from the phases of development of CSR in the book which was published in the year 2000 and adding on to the development of CSR beyond 2000, let us now discuss the phases of development of CSR in India.

Phase 1 (CSR driven by Charity and Philanthropy): This time period spans 1850 to 1914. In its early stages, CSR was influenced by culture, customs, familial values, industrialization, and religion. In India, charitable and philanthropic customs and religious responsibilities like *dan*, *seva*, and *zakat* have been practised for centuries. The goal of committing to society for religious purposes drove merchants to make substantial donations for temple construction in the 1850s. The merchants also provided food and cash during times of famine and epidemics to aid the society in overcoming these tragedies. Several families, including the Tatas, Birlas, Godrej, Shriram, Singhanian, Lalbhai, Sarabhai, Mahindra, Modi, Bajaj, and Annamali, were among the first to industrialise India in the 19th century. While these business houses were committed to CSR, they did so for a variety of reasons, including business considerations, political goals, and support for a particular community. The donations made during this period were used to build schools, hospitals, temples, and other structures.

Phase 2 (CSR driven by Social Development): This phase can be marked from 1914 to 1960. India's freedom struggle dominated this time period. Gandhi's trusteeship philosophy had a significant influence on CSR during this time. Established family enterprises created trusts to build educational, scientific, and training facilities, among other things. These trusts also participated in several social causes which were inspired by Mahatma Gandhi, like elimination of untouchability, empowering women and rural development. The commercial houses were drawn into the political struggle for independence during this time. They not only took part in the nation's social and economic development, but they also saw it as a struggle to overthrow the British authority. The desire to live in a free nation served as the impetus for the corporate sector's participation in the nation's growth.

Phase 3 (CSR in the Mixed Economy): India's third phase runs from 1960 to 1980. After independence, the state's influence on development grew significantly. A number of public enterprises began to emerge during this decade. During this time, several laws governing corporate governance, labour laws, and environmental standards also came into existence. The corporate's self-regulatory operations were

replaced by stringent regulations and License Raj. However, the state was unable to end poverty and promote economic growth. Back in the spotlight, the private sector's contribution to the nation's socioeconomic progress was seen as crucial. Businesses were required to engage in regular stakeholder engagements, be more transparent, and be socially responsible. Despite of all these efforts, the CSR's contribution to development fell short of expectations.

Phase 4 (Interface between philanthropic and business approaches): During this phase from 1980s to 2000, companies began to adopt a multi-stakeholder approach and began to see CSR as a viable business strategy. India was integrated with the world markets after the liberalisation of the economy in the 1990s. The economy grew rapidly after the license systems were abolished. This economic growth translated to rapid expansion of Indian businesses, which boosted their desire to take a more active role in the nation's socioeconomic development. Because many multinational corporations now rely heavily on India as a production and manufacturing hub, Indian businesses who produce and export goods to industrialized nations are also required to comply with various international regulations related to labour, environment etc.

Phase 5 (From CSR guidelines to Mandatory CSR): The Ministry of Corporate Affairs released the Corporate Social Responsibility Voluntary Guidelines in 2009. This was India's first attempt towards formalizing CSR. It comprised the fundamental components of CSR, such as ethical behaviour, respect for human and worker rights, consideration of the environment, welfare of stakeholders, etc. This was followed by The National Voluntary Guidelines of Social, Environmental, and Economic Responsibilities of Business, released in 2011 by the Ministry of Corporate Affairs. These recommendations urged the corporation to follow the nine CSR principles, and compliance with the guidelines was determined using the "apply or explain" method. In order to bring more transparency in the functioning of CPSEs, the guidelines on Corporate Governance for CPSEs was given in 2010. With the passage of Section 135 of the Company's Act in 2013, India became the first nation to require large companies with specific turnovers to disclose their CSR spending.

2.4 THE NATIONAL VOLUNTARY GUIDELINES (NVGS)

In order to help businesses to work in accordance with the national policies of inclusive growth and climate change, the Ministry of Corporate Affairs established the National Voluntary Guidelines on Social, Environmental, and Economic Responsibilities of Business. The guidelines assist the corporation in developing goals while considering their effects on stakeholders and the environment.

The NVGs are based on nine principles which are as under

1. Companies should operate ethically, transparently, and with accountability.
2. Companies should offer products and services that are safe and support sustainability over the course of their entire life cycles.
3. Companies ought to support their employee wellbeing.
4. Companies should respect the interests of all stakeholders and respond to their needs, especially those who are weak, vulnerable, or excluded.

5. Businesses should support and uphold human rights.
6. Business should treat the environment with respect, safeguard it, and work to restore it.
7. Companies should influence governmental and regulatory policy in a responsible manner.
8. Companies should promote equitable development and inclusive growth.
9. Businesses should engage with and provide value to their customers and consumers in a responsible manner.

Activity 1

How do you think mandatory CSR would help in the development of India?
Discuss

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Check Your Progress 1

- Notes:** a) Write your answers in about 50 words.
b) Check your answer with possible answers given at the end of the unit.

1) What are the key elements of the fifth phase of development of CSR in India?

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2) What was the purpose of National Voluntary Guidelines?

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2.5 THE COMPANIES ACT 2013 AND CSR

(Source: mca.gov.in)

The Act

CSR has been mandated under the Companies Act so as to engage the corporate world in country's development agenda. The Corporates are required to supplement government's efforts towards equitable distribution of the benefits of growth to all sections of the society. The Companies in India are governed by Clause 135 of the Companies Act 2013 for performing their CSR activities.

Section 135 has been amended vide Companies (Amendment) Act, 2019 and Companies (Amendment) Act, 2020 which is effective from 22nd January, 2021.

Section 135

As per Section 135 of the Companies Act 2013,

- This mandates the companies with an annual turnover of 1000 crore INR and more, or a net worth of 500 crore INR and more, or a net profit of 5 crore INR and more to constitute a CSR Committee of the Board consisting of 3 or more directors of which one will be an independent director.
- The Board's report is required to disclose the composition of the CSR Committee.
- The CSR Committee will be responsible to
 - a) formulate a CSR Policy indicating the CSR activities that will be undertaken by the company in areas specified in Schedule VII and recommend this CSR policy to the Board;
 - b) recommend the expenditure to be incurred on the CSR activities indicated in the CSR policy;
 - c) periodically monitor the CSR Policy.
- The Board of every company shall
 - a) Approve the CSR Policy recommended by the CSR Committee, disclose the contents of CSR Policy in its report, and post it on the Company's website in the required format; and
 - b) Ensure that the company carries out the activities listed in its CSR Policy.
- The Board of each company shall ensure that
 - a) the company adheres to the CSR policy and spends at least two percent of the average net profits of the company made during immediately three preceding financial years (or immediately preceding financial years in case the company has not completed three financial years since its incorporation)
 - b) The company shall spend the money designated for CSR initiatives in the local and surrounding areas where it operates.
 - c) In case the company fails to spend the prescribed amount, the Board, in its report is required to give reasons for not spending.

- d) If the unspent amount does not relate to any ongoing project, the amount is required to be transferred to a Fund specified in Schedule VII, within a period of six months of the expiry of the financial year.
 - e) In case the corporation spends more than that is required, it may deduct that extra money from the amount that is required to be spent for succeeding three financial years.
- Any funds earmarked for an ongoing CSR project that remain unspent must be transferred within 30 days to an account opened in any scheduled bank. This account is to be named as which is to be referred to as Unspent Corporate Social Responsibility Account and the unspent amount has to be spent on CSR activities within three financial years from the date of transfer. In case the company fails to do so, it shall transfer this amount to a fund specified in Schedule VII, within a period of thirty days from the date of completion of the third financial year.
- Violation of the terms of sub-sections (5) or (6), calls for a penalty of twice the amount required to be transferred to the Fund listed in Schedule VII or one crore rupees, whichever is less. Each officer violating the provision is also subject to a penalty of one-tenth of the amount that must be transferred by the company to the Fund specified in Schedule VII or two lakh rupees, whichever is less.
- A firm or class of companies may receive general or specific instructions from the Central Government to ensure compliance of this section and they must abide by those instructions.
- Companies that are required to spend less than 50 lakh rupees for CSR are not required to form the CSR Committee and the Board of Directors of such company shall discharge the functions of the CSR Committee.

2.6 SCHEDULE VII OF THE COMPANIES ACT, 2013

The Schedule VII of the Company's Act provides a list of activities which can be included by companies in their CSR policies where the CSR spending can be done. These activities relate to:

- i) Putting an end to hunger, poverty and malnutrition; fostering health care, particularly preventive health care; guaranteeing access to safe drinking water; and promoting sanitation, including participation in the Swach Bharat Kosh project launched by the Central Government.
- (ii) Promoting special education, employment-enhancing career skills, and livelihood improvement activities, especially for children, women, the elderly, and individuals with disabilities.
- (iii) Promoting gender equality, empowering women, constructing homes and hostels for women and orphans, creating nursing homes, daycare centres, and other facilities for the elderly, as well as adopting measures to lessen the inequalities encountered by socially and economically disadvantaged groups.

- (iv) Ensuring ecological sustainability, flora and fauna protection, animal welfare, agroforestry, resource conservation, and standards for soil, air, and water quality including contributions made to the Central Government's Clean Ganga Fund.
- (v) Safeguarding the nation's heritage, art and culture which includes restoring historic structures, places, and artwork; establishing public libraries; and encouraging the growth of traditional crafts and art forms;
- (vi) Measures for the welfare of veterans of the armed services, war widows, and their dependents, as well as veterans of the Central Armed Police Forces (CAPF) and Central Paramilitary Forces (CPMF), and their dependents including widows.
- (vii) Training to promote rural sports, recognised national sports, paralympic sports, and Olympic sports.
- (viii) Donation to the Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES Fund) or the Prime Minister's National Relief Fund or any other fund established by the central government for the relief, welfare, and socioeconomic development of the schedule caste, tribes, other underprivileged classes, minorities, and women.
- (ix) Contributions to: (a) incubators or research and development projects in the fields of science, technology, engineering, and medicine that are supported by the Central government, state government, a public sector enterprise, or any other agency of the Central or state government and (b) Contributions to public funded Universities; and some government Institutes, Departments, Organizations, Councils etc. engaged in conducting research in science, technology, engineering and medicine aimed at promoting Sustainable Development Goals (SDGs).
- (x) Rural development projects
- (xi) Slum area development.
- (xii) Disaster management, including relief, rehabilitation and reconstruction activities.

2.7 CSR INITIATIVES BY INDIAN COMPANIES

Some of the CSR initiatives of Indian companies are listed below:

1. Reliance Industries Ltd.

Reliance is the biggest corporation in India and holds a dominant position in India's retail and digital services industries and is a prominent global player in the integrated energy value chain. For the past few years, Reliance Industries Limited has topped CSR spending in India. In FY2021-22, the Company invested more in CSR efforts than required by the Companies Act, spending Rs. 1186 crores as against Rs. 1112 crores required. Most Reliance's community outreach initiatives are carried out through Reliance Foundation, the company's CSR division. Over 5.75 crore people's lives have been impacted by the company's charitable efforts since they began. Rural transformation, education, disaster response, health, sports for development, and

arts, culture, and heritage are among Reliance Industries' primary CSR priority areas. The company also contributed towards combating the spread of the COVID-19 pandemic. The CSR Journal Excellence Awards 2021 recognized Reliance Foundation for its Corporate Leadership in ESG.

2. Tata Consultancy Services Limited

For more than 50 years, many of the largest businesses in the world have received assistance from Tata Consultancy Services (TCS), a Tata Group organization that provides IT services, consulting, and business solutions. The company spent a total of Rs. 727 crores on CSR in FY2021-22, exceeding the mandated amount (Rs. 716 crores). The company holds that everyone has the same potential at birth, but not the same opportunities. The mission of TCS is to empower individuals and communities, foster self-reliance through technology, and uphold the principles of justice, equity, and respect for human rights. The business is still committed to connecting individuals with opportunities in the digital economy while creating fair, inclusive routes for everyone, including women.

3. HDFC Bank Limited

As of April 2021, HDFC Bank ranked as the tenth largest bank in the world by market capitalization and the largest private sector bank by assets in India. Although the bank was required to spend Rs. 733.86 crores on CSR projects in FY2021-22, it spent Rs. 736.01 crores. Community development programmes at HDFC Bank are carried out under the CSR umbrella brand HDFC Parivartan. Through several projects in the fields of education, skill development and livelihood enhancement, health care, sports, environmental sustainability, and rural development, Parivartan seeks to alter the communities in which the bank operates. In addition, Parivartan is at the forefront of rebuilding communities and restoring infrastructure following natural disasters. Through its CSR efforts, the Bank has impacted the lives of nearly 9.6 crore individuals.

4. ICICI Bank Limited

India's top private-sector bank is ICICI Bank. According to market capitalization, it is the fourth-largest corporation in the nation. The bank spent more money on CSR projects in FY2021-22 than it was required to, spending Rs. 266.62 crores (Rs. 259.61 crores). The goal of ICICI Bank is to actively assist significant socioeconomic development in India and make it possible for a greater population to take part in and benefit from that country's economic growth. The ICICI Foundation for Inclusive Growth was formed by the Bank in 2008 with the intention of advancing this through CSR. ICICI Foundation focuses a major chunk of its CSR efforts in rural areas. The ICICI Foundation has learned the value of determining local needs at the local grassroots level and creating initiatives or programmes for maximum impact over time. These programmes address issues with resource scarcity, expand the value chain for agricultural products, train people in efficient farming methods etc.

5. Infosys Limited

Infosys Limited was a leader in the CSR movement in India. Most of its CSR initiatives have been carried out through the Infosys Foundation, which was established in 1996—long before CSR was officially recognised as a legal concept in the nation. The company invested Rs. 344.91 crores in its CSR initiatives in FY 2021–22.

However, according to the company’s most recent annual report, it was required to invest Rs. 396.70 crores.

In India, the Infosys Foundation seeks to have a significant social impact. Through the Foundation, Infosys’ CSR programmes concentrate on supporting rural development, addressing destitute care and rehabilitation, addressing malnutrition and hunger, enhancing healthcare, addressing education, preserving national and historical heritage, and promoting art and culture. Infosys achieved carbon neutrality in 2020 and has maintained it for last three years.

6. Hindustan Unilever Limited

Consumer goods company Hindustan Unilever Limited (HUL) was founded in 1931. The company is the sixth-largest by market capitalization in India, thanks to the high demand for its products among Indian consumers. HUL was required to spend Rs. 184.43 crores on CSR in the FY2021-22. But it cost 157.58 crores of rupees.

CSR for HUL includes holistic community development, institution-building, and sustainability-related projects in addition to charitable giving. The company’s CSR initiatives are focused on issues including water conservation, health and hygiene, skill development, education, social advancement, gender equality, and women’s empowerment in addition to projects that promote rural development and environmental sustainability.

Activity 2

Write about the CSR activities of any one Indian company which has not been mentioned in this chapter.

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Check Your Progress 2

Notes: a) Write your answers in about 50 words.

b) Check your answer with possible answers given at the end of the unit.

1) What does Section 135 of Companies Act say about the unspent amount which has been earmarked for any CSR activity?

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2) List out any three activities mentioned in Schedule VII of Companies Act.

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2.8 LET US SUM UP

In this unit you have read about the evolution of CSR in India. You read about how CSR evolved from being driven by charity and philanthropy in the 19th Century to CSR being a sustainable corporate strategy. You have also read about how Indian CSR shifted from voluntary practices to a regulatory mechanism with the inclusion of CSR mandate in the Company's Act 2013. Further, the unit discusses some of the CSR initiatives by few leading companies.

2.9 KEY WORDS

Philanthropy : The desire to promote the welfare of others, expressed especially by the generous donation of money to good causes.

Schedule VII : The Schedule VII of the Company's Act provides a list of activities which can be included by companies in their CSR policies where the CSR spending can be done.

National Voluntary Guidelines : The National Voluntary guidelines were laid down by the Ministry of Corporate Affairs to provide guidance to the companies to work in accordance with the national policies of inclusive growth and climate change.

2.10 REFERENCES AND SELECTED READINGS

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2.11 CHECK YOUR PROGRESS - POSSIBLE ANSWERS

Check Your Progress 1

Answer 1: The Ministry of Corporate Affairs released the Corporate Social Responsibility Voluntary Guidelines in 2009. This was India's first attempt towards formalizing CSR. This was followed by The National Voluntary Guidelines of Social, Environmental, and Economic Responsibilities of Business, released in 2011 by the Ministry of Corporate Affairs. The guidelines on Corporate Governance for CPSEs was given in 2010 to bring more transparency and accountability in the functioning of CPSEs. With the passage of Section 135 of the Company's Act in 2013, India became the first nation to require large companies with specific turnovers to disclose their CSR spending.

Answer 2: In order to help businesses to work in accordance with the national policies of inclusive growth and climate change, the Ministry of Corporate Affairs established the National Voluntary Guidelines on Social, Environmental, and Economic Responsibilities of Business. The guidelines assist the corporation in developing goals while considering their effects on stakeholders and the environment.

Check Your Progress 2

Answer 1: Any funds earmarked for an ongoing CSR project that remain unspent must be transferred by the company within thirty days of the financial year's end to a special account which will be opened in any scheduled bank and will be referred to as Unspent Corporate Social Responsibility Account. This amount shall be spent by the company for its CSR activities within a period of three financial years from the date of transfer, failing which the company shall transfer this fund to a fund specified in Schedule VII, within a period of thirty days from the date of completion of the third financial year.

Answer 2: Three activities as mentioned in the Schedule VII of the Company's Act are

- i. Ending hunger, poverty, and malnutrition; promoting health care, especially preventive health care; ensuring access to safe drinking water; sanitation including contribution to the Swach Bharat Kosh initiative established by the Central Government to promote sanitation.
- ii. Supporting livelihood enhancement programmes, special education, and employment-enhancing vocation skills, particularly among children, women, elderly people, and people with disabilities.
- iii. Promoting gender equality, empowering women, establishing homes and hostels for women and orphans, establishing old age homes, day care centres, and other facilities for senior citizens, as well as taking steps to lessen the disparities faced by socially and economically disadvantaged groups.