

### **"Non-compliance by corporates should be decriminalised and made a civil offence."**

It was first encouraged as a voluntary contribution by business; six years ago it evolved into a co-option of the corporate sector to promote inclusiveness in society and now, corporate social responsibility or CSR has become an imposition on India Inc.

Key amendments to the relevant sections of the Companies Act in the last session of Parliament have now made non-compliance with CSR norms a jailable offence for key officers of the company, apart from hefty fines up to ₹25 lakh on the company and ₹5 lakh on the officer in default. Finance Minister Nirmala Sitharaman is said to have assured representatives of India Inc.

When they met her last week that this amendment will be reviewed. Yet, it is curious that the government rushed through with amendments on the CSR law even as a committee constituted by it was finalising its report on the same subject. As it happened, the committee, headed by the Corporate Affairs Secretary submitted its report on August 13, well after Parliament had passed the amendments. On the specific issue of penalties, the committee has proposed that non-compliance be de-criminalised and made a civil offence.

"CSR is a means to partner corporates for social development and such penal provisions are not in harmony with the spirit of CSR," the committee's report says and rightly so. CSR should not be treated as another tax on businesses.

Every company with a net worth of ₹500 crore or turnover of ₹1,000 crore or net profit of ₹5 crore should spend 2% of the average profits it made over the previous three years on social development. The experience since this provision was operationalised in 2013 has been mixed. Filings with the Ministry of Corporate Affairs show that in 2017-18, only a little over half of those liable to spend on CSR have filed reports on their activity to the government.

The other half either did not comply or simply failed to file. The average CSR spend by private companies was just ₹95 lakh compared to ₹9.40 crore for public sector units. These are early days yet, and compliance will improve as corporates imbibe CSR culture fully. The committee's suggestion to offer a tax break for expenses on CSR makes sense as it may incentivise companies to spend. It has also recommended that unspent CSR funds be transferred to an escrow account within 30 days of the end of the financial year.

It should be recognised that CSR is not the main business of a company and in these challenging times they would rightly be focusing their energies on the business rather than on social spending. The government should be careful to not micromanage and tie down businesses with rules and regulations that impose a heavy compliance burden. Else it might end up with the opposite of what it intends — to rope in corporates as citizens to promote social inclusion.

## GS World Team...

### Corporate Social Responsibility

#### Why in discussion?

- Recently the Companies (Amendment) Bill, 2019 has been passed by both Lok Sabha and Rajya Sabha. The Bill amends the Companies Act, 2013.
- Since then, Corporation Social Responsibility or Corporate Social Responsibility (CSR) has come into the headlines.
- According to the Act, companies which have a provision of CSR, will have to disclose this in their annual report if they do not utilize the entire amount of CSR.
- The unspent amount of CSR every year under the bill will be transferred to one of the funds (such as the Prime Minister's Relief Fund) under Schedule 7 of the Act within six months of the financial year.

#### What is it?

- As we know companies use natural resources to create a product, promote pollution and fill their pockets; But various people living in the society have to bear the loss of this severe pollution; Because of the productive activities of these companies, they have to use polluted air and water. But these affected people are not given any direct compensation on behalf of the companies.
- It is for this reason that it has been made mandatory for companies all over the world, including India, to spend some part of their income for the welfare of those who have been facing inconvenience. This is called Corporate Social Responsibility (CSR).

- Who comes under the purview of Corporate Social Responsibility in India?
- The rules of Corporate Social Responsibility (CSR) in India are applicable from April 1, 2014. According to this, companies whose annual net worth is Rs 500 crores or annual income of 1000 crores or annual profit of 5 crores, then they are required to spend on CSR.
- This expense should be at least 2% of the average profit for three years. As per the CSR rules, the provisions of CSR do not only apply to Indian companies, but also to the branch of a foreign company in India and the project office of a foreign company.

#### What activities can be done in CSR

- Under the CSR, companies are obliged to participate in activities that are necessary for the welfare of the backward or marginalized sections of the society.

#### It involves the following activities: -

1. End hunger, poverty and malnutrition
2. Promoting education
3. Improve maternal and child health
4. Ensuring environmental sustainability
5. Measures for the benefit of the armed forces
6. Promoting sports activities
7. Protection of National Heritage
8. Contribution to Prime Minister's national relief fund.
9. Development of slum area
10. Construction of toilets in schools

**Expected Questions (Prelims Exams)**

1. Recently, the bill for amendment in the Companies Act-2013 was passed in both the houses of Parliament, with new amendments, which of the following statements regarding this bill is incorrect?
- (a) Under Corporate Social Responsibility, every year unspent funds will be transferred to the funds under Schedule 7 of the Act within six months of the financial year.
  - (b) The Corporate Social Responsibility Rules are in force in India from 1 April 2014.
  - (c) According to it, companies whose annual income is Rs. 1000 crore - or an annual net worth of Rs 400 crore - or 10 crore per annum, have been brought under its purview.
  - (d) The amount covered under Corporate Social Responsibility should be at least 2% of the average profit for three years.

**Expected Questions (Mains Exams)**

- Q. Discuss the measures taken to implement CSR more firmly by the Companies Amendment Bill, 2019 in the Companies Act, 2013. (250 Words)

**Note:** Answer of Prelims Expected Question given on 16 Aug. is 1 (d)

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