



## Emerging trend of Corporate Social Responsibility in India in 2022.

**Prof. Ashok Kumar Marathe**

Prof. of Commerce & Programme CoordinatorNSS  
Rani Durgavati University, Jabalpur

**Dr. Meena Rai**

Faculty of Commerce  
Govt. Mahakoshal Arts & Comm. JBP

### INTRODUCTION

The Companies Act 2013 replaced the Companies Act of 1956 w.e.f. 29<sup>th</sup> August, 2013, which introduced material changes for incorporation and corporate governance structure of companies in India. It also introduced a new provision under Section 135 for implementing Corporate Social Responsibility ("CSR") by companies. A Schedule VII was also included in the Companies Act 2013 along with separate set of rules for Companies (Corporate Social Responsibility) Rules, 2014 which prescribe mandatory provisions for Companies to fulfil their CSR obligations. Accordingly, every Company including its holding or subsidiary having net worth of Rs. 500 Crore or more, or Turnover of Rs. 1000 crore or more, or Net Profit of Rs. 5 crore or more, during immediately preceding financial year are mandatorily required to spend on CSR activities related to the areas specified in Schedule-VII of the Companies Act and mandatorily prescribe for compliance with regard the allocation, disbursement and utilisation of funds for such CSR activities.

The earlier Clause 49 which governed Listing obligations for those companies which are listed and traded on the bourses of stock exchanges in India, as per earlier Companies Act 1956 have been substituted with Listing Obligations & Disclosure Regulations 2014 which inter alia mandate for compliance reporting by listed entities, to include a section on Corporate Social Responsibility and to report their achievements in the Annual Reports as per the specified norms.

With the inclusion of Section 135 of the Companies Act, 2013, India became the first country to legislate make CSR activities mandatory which actually marked a milestone for impetus accorded to CSR activities in India. Section 135 of Companies Act, 2013 made it mandatory for companies earning a certain threshold of turnover and profitability as mentioned above to spend for CSR activities specified in the seventh schedule. Even though the inclusion of such provision was made mandatory, large companies have been quite reluctant to spend their budgetary spends on activities related to the benefits of common public specially the down-trodden section of society and truncated their CSR allocations for the growth and development of infrastructure sector viz. roads, schools, healthcare, hospitals etc. which prompted the law-makers to make several amendments in the policy regulations on CSR. Such companies despite generating huge wealth prefer to spend on such activities which benefit their own resources, indirectly under CSR, by contributing their CSR expenses to the limited developmental activities on the spheres touching their own business or industry or area specific activities for implicit advantage of such companies.

The paper brings out the patterns of amendments introduced in CSR rules in 2021 and to evaluate corporate spending on social activities.

On January 22, 2021, the Government of India brought into effect the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021 ("Rules"). The Rules amended the existing Companies (Corporate Social Responsibility Policy) Rules, 2014 which marks another milestone towards development of CSR Rules in India were notified in the Extraordinary Gazette of India dated 22.1.2021.

Through the 2021 amendment rules, definition of Corporate Social Responsibility ("CSR") to clarify that activities undertaken in pursuance of normal course of business of the company shall not be included under the ambit of CSR. The amended rules, to an extent, addresses the pandemics like we have witnessed COVID-19 in the recent past, without specifically naming such disasters. Accordingly, any company engaged in research and

development activity of new vaccine, drugs and medical devices in their normal course of business may undertake research and development activity of new vaccine, drugs and medical devices related to COVID-19 for financial years 2020-21, 2021-22, 2022-23 as CSR. The Rules further clarify that any activity undertaken by the company outside India shall not be considered as CSR. Further, the new Rules have also clarified that any donation to a political party under Section 182 of the Companies Act, 2013 or any activities carried out for fulfilment of any other statutory obligations under any law shall not be considered as CSR. Further, the Rules have clarified that activities benefitting employees of the company as defined in clause (k) of section 2 of the Code on Wages, 2019 or activities supported by companies on sponsorship basis for deriving marketing benefits for its products or services shall not be considered as CSR.

The Rules have also completely amended Rule 4 in the Existing Rules. The amended Rule 4 states that a Company can undertake CSR activities by itself or through any (a) company incorporated under Section 8 of the Act; (b) registered public trust; (c) registered society under Sections 12A and 80G of the Income Tax Act, 1961; (d) any entity established under an Act of Parliament or a State legislature; or (e) any company incorporated under Section 8 of the Act, registered public trust, registered society under Sections 12A and 80G of the Income Tax Act, 1961 which has an established track record of at least three years in undertaking similar activities.

Every entity that needs to undertake any CSR activity shall have to register itself with the Central Government. These entities would be required to fill the CSR-1 Form electronically with the Registrar of Companies from April 1, 2021.

The amended Rule 4 ensures that it is the responsibility of the board of the company to monitor the implementation of CSR projects in accordance with project timelines and to ensure that the funds are utilized for the approved purpose. The board of the Company has been granted the power to make alterations to the projects if deemed necessary, to ensure better implementation with the prescribed time period. The amended Rule 4 places an additional obligation on the Chief Financial Officer of the company to ensure that any funds disbursed for a CSR Project is required to be utilized to the satisfaction of the board in the manner approved by it and such disbursement shall be certified by the Chief Financial Officer (CFO) or the 'person' in charge of financial management. Engagement of external organizations, international or national for design, evaluation, capacity building and monitoring of CSR projects as well as collaboration with other companies to undertake CSR projects so long as the reporting mechanism remains individualistic, has also been permitted under the said rule.

Through Rule 5, companies are mandatorily required to constitute a CSR committee. While no changes have been made to Rule 5 (1), the Rules have substituted Rule 5 (2). In accordance with the amended Rule 5(2), the CSR committees shall be required to formulate an annual action plan in consonance with the company's CSR policy and recommend the same to the board of the company. This annual action plan may be alerted at any time during the financial year, as per the recommendation of its CSR committee and is required to include (a) approved list of CSR projects; (b) manner of execution of the listed projects; (c) implementation schedule/timeline and method of fund utilization; (d) mechanism of monitoring and reporting ongoings of the project; and (e) details of need for project and impact assessment, if any.

#### **CSR Expenditure**

Rule 7 on CSR expenditure has been expanded to provide for rules regarding management of funds allocated to CSR. The rules clarify that the amount allocated by a company in a financial year to the administrative aspects of CSR cannot exceed 5 percent of total CSR expenditure. The amended Rule 7 also clarifies that in case there remains excess funding arising out of a CSR project undertaken by a company, the amount cannot be utilized for any business profits or ancillary purposes other than those prescribed in the rules and must be reinvested into the same CSR project or may be transferred into the unspent CSR Account in furtherance of other CSR policies or annual action plans of the company or transferred to a fund as specified under Schedule VII of the Act.

Through the amendment to Rule 7, companies are now allowed to set-off CSR expenditure above the required 2 per cent expenditure in any financial year against the required expenditure for up to three financial year, if a company spends an amount in excess to their CSR requirements. However, in order to do so, the board must pass a resolution to that effect and ensure that the excess amount available for set off shall not include the surplus arising out of the CSR activities, if any.

The amended Rule 7 also allows companies to spend the CSR amount for creation of capital asset or acquisition of one, to be held by either the beneficiaries of the CSR project such as entities, collectives or self-help groups; a public authority; or a company incorporated under Section 8 of the Act or a registered public trust, registered society with a charitable objective.

#### **CSR Reporting**

The Rules have altered the CSR reporting mechanism to include an annual report on CSR by the Board in the manner prescribed under Rule 8. In the case of a foreign company, the Rules require the balance sheet

submitted to the Registrar as per the requirements of Section 381(1)(b) of the Act, to be included in the annual report on CSR in the manner prescribed in the Rules.

In accordance with Rule 8 companies having an average CSR obligation of Rupees Ten Crore or more are required to undertake an impact assessment for their CSR projects of Rupees One Crore or more, that are completed less than a year of the impact study via an independent agency, within three immediately preceding financial years. Further, a company is permitted to book expenditure up to Rupees Fifty Lakh or five percent of the total CSR expenditure (whichever amount to less) where the expenditure arises from undertaking an impact assessment of the said company.

With the above backdrop, let us now evaluate the prominent 20 CSR performing companies in 2021-22 to perceive the trend effect of the amended CSR Regulations for extending the direct benefit of CSR to the public.

The following data includes CSR activities which providing direct benefits to the intended beneficiaries and excludes the contribution to PM CARES Fund which is created to support the government the in its efforts to fight COVID-19.

Table 1. Spending profile of 20 large companies in India

Sr. no	Company	CSR Activities
1	Godrej Consumer Products Limited	Long-term livelihood recovery; Trusteeship, Education, Health care, Infrastructure Development, Water and sanitation; zero waste-to-landfill and water positivity; Sustainability and Climate Change.
2	Infosys Limited	Sustainable Development; Education, Community healthcare, Community safety initiatives, Community environment initiative, Rural development, Livelihood support program,
3	Wipro Limited	Humanitarian aid, integrated healthcare support, and livelihoods regeneration, Community development, Education, Social enablement, Water conservation, Women Empowerment, Child grooming, Safety education
4	Tata Chemicals Ltd.	Conservation of Environment, Capacity building, field demonstration and livestock management ; Vocational training, Rural Health;
5	ITC Ltd.	Rural and community health, Rural education, Social Forestry; Waste recycling.
6	Jubilant Life Sciences Ltd.	Health, education livelihood and social entrepreneurship; School digitalisation program, improving the quality of education through teacher's training on value-based education and building capacity of youths to impart value-based education in the community; promote health-seeking behaviour in the community; Livelihood initiatives like SHG & micro-enterprise Promotion and Sustainable Agriculture programme for women; Facilitation of exceptional individuals in Social Business.
7	Grasim Industries Ltd.	Health, Education, Employability, Environment; Community Health, Preservation of tribal culture, Sustainable livelihood, Healthcare, Employment, Employability, Empowerment & Sports
8	Vedanta Ltd.	Waste water treatment, water sustainability, energy and carbon management., education, health, women empowerment, sports and culture, environment and community development specially for women and children.
9	Tata Power Ltd.	Financial inclusion, education, health & sanitation, water, livelihood & skill development.
10	JSW Steel Ltd.	Strategic inclusive development for preserving and building drinking water resources, building better sanitation facilities, conserving environment, providing healthcare and nutrition amenities, providing quality education, creating platforms for skill-building and livelihoods, promoting sports and art, culture and heritage.
11	UPL Limited	Wildlife conservation, forest conservation and avoidance of man-animal conflict in the region, preservation of endangered species viz. forest cranes (saras); provide holistic learning opportunities to tribal youth and rural children.
12	Mahindra & Mahindra Ltd.	Generating livelihood from agricultural resources; education of underprivileged girls; training to youths from socially and financially disadvantaged communities; tree plantations in villages; empower women farmers in India by enhancing their knowledge, capability,; restoration of water resources of communities to support sustainable development.
13	Dr Reddy's Labs Ltd.	Education, livelihood and health. Skill training, to rural youth.
14	Tech Mahindra Ltd.	Sponsoring financial support to daily wagers, migrant workers, farmers, persons with disabilities and transgender community.

15	Hindustan Uniliver Ltd.	Rural Sanitization by providing over 2 crores soaps and sanitisers, bottles of toilet and surface cleaners, packs of Horlicks and other products to the frontline medical professionals, police officials, sanitation workers and vulnerable citizens of the country in partnership with the government and various NGOs; Providing food ration to families of over 40,000 needy students. Helping returning migrants and landless farmers to get job cards under MGNREGA.
16	Ambuja Cements Ltd.	Capacity Building for water resource management, livelihoods (agro-based and skill and entrepreneurship development), health and sanitation, women empowerment and quality education. improve the productivity of agricultural lands for improved yields and economic prosperity by introducing scientific farm practices with greater use of technology for sustainable production.
17	Toyota Kirloskar Motors Ltd.	Strengthening existing village level primary healthcare systems, by supporting with the required supplies and healthcare infrastructure.construction modern school buildings equipped with functional toilets.
18	Larsen & Tubro Ltd.	Providing health and educational services to the underprivileged children; food security to underprivileged children; distribution of sanitary kits containing bathing and washing soap, toothpaste, hair oil and sanitary pads to village communities.
19	NTPC Ltd.	Regular sanitization of villages, distribution of PPE kits to health professionals, distribution of face masks to villagers and supply of groceries; construction of school and hostel for tribal children; scholarships to the needy meritorious children from Scheduled Tribes community; vocational training to the village youth.
20	Hindustan Zinc Ltd.	Purchase and distribution of dry ration in local communities, feeding stray animals and mask-making; reducing malnourishment, health screening of about 1.32 lacs children; rehabilitation of underweight children; providing education to more than 2,200 children from vulnerable communities through scholarships and grants; empowering Persons with Disabilities to become contributing members of their families; adequate access to clean drinking water through installation of RO systems.

The above trend clearly indicates that after the amendment of 2021 rules, the companies have slowly started shifting their focus in CSR spends from generic activities viz. constructing roads, school-buildings community development, conservation of environment, sustainability, sanitization, water and energy conservation to specific activities for benefiting certain needy and individuals viz. poor villagers, unprivileged communities, children, capacity building, deprived members of community, rural women etc. which could actually ameliorate their poverty and ensure to permanently rehabilitate them to see a better future, which is the sole objective for giving impetus through the Companies Act 2013.

#### Reference :-

- N.D.Kapoor-Commercial Law-Sultan chand publishers, New Delhi.
- S N Maheswaru & Suneed Maheswari Commercial Laws-Mayoor Paper Backs NOIDA
- Tulisian P.C.-Business Laws-Tata Mc Graswhill Publishing house, New Delhi
- Kucchal Business Law-Vikas Publishing House, New Delhi.
- Avatar Singh-Mercantile Law-EBC-New Delhi.