



Indian Regulations and Frameworks for Corporate Social Responsibility: A Comprehensive Guide

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ABSTRACT

In India, corporate social responsibility (CSR) has become an essential component of commercial operations. comprising a variety of programmes designed to increase how positively enterprises impact society and the environment. Certain businesses are required by law to comply with the Companies Act of 2013 in order to Spend a percentage of their earnings to CSR initiatives. This article discusses the many facets of CSR, including community development, ethical business conduct, and environmental sustainability. It also sheds light on the pertinent legal frameworks, such as the Foreign Contribution Regulation Act (FCRA), the Goods and Services Tax (GST), and the Income Tax, which govern CSR activities in India. Businesses can get a more thorough awareness of their social and environmental obligations as well as the laws that control them by looking at these many facets of CSR.

KEY WORDS

Corporate Social Responsibility, Law, Foreign Contribution Regulation, Goods and Services Tax.

INTRODUCTION

Over the past few years, the idea of corporate social responsibility (CSR) has been increasingly important in India. The Indian Government introduced the CSR provisions in the Companies Act, 2013, requiring businesses with a net worth of at least Rs. 500 crore, a turnover of at least Rs. 1000 crore, or a net profit of at least Rs. 5 crore to spend at least 2% of their average net profit over the previous three years

on CSR activities. Due to this action, businesses are now more conscious of their social and environmental impact and actively participate in initiatives that benefit both society and the environment.

CSR initiatives in India focus on a variety of fields, including as rural development, healthcare, education, and poverty eradication. Among other projects, businesses are funding the construction of schools, the provision of healthcare, the support of sustainable agriculture, and the promotion of renewable energy.

CSR has become a crucial component of Indian business, with organisations utilising their knowledge, assets, and networks to address social and environmental problems. Numerous towns have benefited from these programmes, which have had a huge positive impact on society.

Understanding the complexities of CSR in India, especially the rules governing CSR operations, is crucial in this setting. The notion of CSR in India is thoroughly examined in this essay, which also outlines the key considerations for firms when launching CSR programmes.

Different Aspects of CSR

Corporate Social Responsibility (CSR) is a broad concept that encompasses a variety of activities, such as promoting environmental sustainability, upholding moral company conduct, and assisting in the growth of neighbourhood communities. These components serve as the CSR basis and are essential to making a positive contribution to society and the environment. It is crucial to examine each of these components in greater detail in order to comprehend CSR and its ramifications.

Environmental Sustainability

Environmental sustainability is an essential aspect of CSR. It entails taking actions to reduce a company's environmental effect by putting in place various programmes, like employing renewable energy, cutting back on waste, and protecting natural resources. For instance, companies can reduce their carbon footprint by implementing sustainable packaging strategies that make use of recyclable materials. To encourage ecological responsibility and sustainability, several organisations have already implemented these kinds of eco-friendly practises into their CSR programmes.

Ethical Business Practices

Ethical business practises, which entail ensuring that a firm works transparently and with integrity, are a fundamental component of CSR. This can be accomplished by putting anti-corruption laws into place, encouraging ethical hiring procedures, and supporting diversity and inclusion. Companies can, for instance, embrace the UN Global Compact, a framework that establishes moral and socially accountable corporate practises. This agreement lays out rules for companies to follow in order to conduct themselves in an ethical and sustainable manner, including safeguarding human rights, making sure that fair labour practises are followed, and avoiding corruption. By adhering to these guidelines, businesses can show their stakeholders that they are committed to acting morally. This will improve their reputation.

Community Development

Another crucial component of CSR that emphasises the significance of business involvement in the development of neighbouring communities is community development. Companies can do this by funding regional projects like healthcare and education initiatives. Businesses can support the construction of school facilities, give to neighbourhood hospitals, or help poor youth with job training programmes, for example. Additionally, a lot of businesses have set up volunteer programmes for their staff members, allowing them to take part in community service initiatives like organising food drives for low-income families or constructing homes for the homeless. In addition to helping the community, these programmes assist staff in growing their leadership and teamwork abilities while supporting a cause that matters to them.

Navigating the Regulatory Frameworks for CSR Activities in India

1. Understanding the CSR Framework and Reporting Requirements for Companies under the Companies Act, 2013:

Section 135 of the Companies Act of 2013, Schedule VII of the Companies Act of 2013, and the Companies (CSR Policy) Rules of 2014 create the Corporate Social Responsibility (CSR) framework.

According to the Companies Act of 2013, businesses that met any of the following requirements in the prior year Net worth of INR 500 crores or more, turnover of INR 1,000 crores or more, or net profit of INR 5 crores or more are required to be met in order for a financial year to comply with the Corporate Social Responsibility (CSR) requirements outlined in Section 135(1) of the Act and the Companies (Corporate Social Responsibility Policy) Rules, 2014. These businesses are required to devote at least 2% of their three-year average net profit to CSR activities specified in the Companies Act of 2013's Schedule VII. All companies, including section 8 corporations, are covered under Section 135(1) of the Companies Act.

According to Section 135(2) of the Companies Act of 2013, each business that satisfies the CSR requirements is required to form a Corporate Social Responsibility Committee of the Board, or CSR Committee.

A minimum of three directors are required to make up the CSR Committee. An independent director must make up at least one of the three directors. A private corporation or an unlisted public company may establish its CSR Committee without an independent director if one is not necessary.

The Corporate Social Responsibility Committee shall, in accordance with Section 135(3) of the 2013 Companies Act,—

A corporate social responsibility policy must be developed and recommended to the board in order to:

- (a) Specify the activities the company will carry out in the areas or subjects listed in Schedule VII;
- (b) Recommend the amount of money to be spent on the activities outlined in clause (a); and
- (c) Periodically review the corporate social responsibility policy of the company.



The Companies (CSR Policy) Rules, 2014's rule 4 states that there are three ways that businesses can carry out CSR initiatives:

- i. Actual implementation by the business.
- ii. Implementation via qualified implementing organisations in accordance with sub-rule (1) of rule 4.
Implementation in cooperation with one or more businesses as outlined in rule 4's sub-rule (4).

A company that plans to engage in CSR activities must register with the Registrar of Companies by submitting the Form CSR-1 electronically.

Form CSR-1

To promote transparency and efficient monitoring of CSR spending, starting on April 1st, 2021, organisations working on initiatives connected to Corporate Social Responsibility (CSR) will need to register with the Central Government by submitting an electronic form called CSR-1.

According to Section 135 of the 2013 Companies Act and Rules 4(1) and 4(2) of the Companies (CSR Policy) Amendment Rules, 2021, entities involved in CSR activities must register with the Central Government by submitting the e-Form CSR-1 and must have their digital authenticity verified by a practising Cost Accountant (CMA), Chartered Accountant (CA), or Company Secretary (CS).

Form CSR-2

Companies must submit a CSR 2 electronic form to the Registrar of Companies every year by March 31 for the previous fiscal year in order to report their CSR activities to the Government. It includes specifics like the sum of money spent on CSR activities, the nature of the activity, and the recipients. Beginning on February 11, 2022, this form will be used.

CSR Reporting Requirements for Companies

Annual reports on CSR must be included in the Board's reports for each fiscal year and must include the information provided in Annexure I or II, as applicable.

In the event of a foreign firm, the balance sheet submitted in accordance with section 381(1)(b) of the Act should include an annual report on CSR with the information indicated in Annexure I or Annexure II, as appropriate.

Companies that, on average, have a CSR spending commitment of Rs. 10 crore or more must carry out an assessment of the results of their CSR initiatives. For projects that cost Rs. 1 crore or more, an independent organisation must conduct this review, which must be finished within a year of the evaluation's beginning.

The yearly CSR report must be submitted to the Board along with the impact assessment report. Up to 5% of the overall CSR expenses for that year, or Rs. 50 lakh, whichever is less, can be incurred by a corporation performing an impact assessment.

The present text does not specify the kind of independent agency to be used to evaluate the effects of CSR projects. Any independent organisation with experience analysing the projects' social, economic, and environmental impacts could serve in this capacity.

To ensure public accessibility, the Board of Directors must make the CSR Policy, approved CSR Projects, and CSR Committee membership mandatory disclosures on their website.

2. Understanding GST Implications for Corporate Social Responsibility (CSR) Activities ITC on CSR activities:

The Finance Bill 2023 clarifies that input tax credit (ITC) will not be accessible for goods or services utilised in activities linked to corporate social responsibility. This is done by amending the Central Goods and Services Tax (CGST) Act. Accordingly, businesses are unable to claim a tax credit for the GST they paid on products or services utilised for CSR projects. Read Clause 130 of the Finance Bill, 2023, which proposes to alter Section 17(5) of the CGST Act, 2017, to add the following.

(b) The phrase "(fa) goods or services or both" shall be inserted after clause (f) in sub-section (5) so that it reads: "(fa) goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligation under corporate social responsibility as referred to in section 135 of the Companies Act, 2013;"

Advance Ruling

As part of their CSR initiatives, Polycab Wires Pvt. Ltd. supplied free electrical supplies to Keralans affected by the floods. The AAR decided that the corporation cannot claim ITC under Section 17(5) of the KSGST and CGST Act since the products were given away for free.

GST exemption for charitable trusts or NGOs registered under Section 12AA of the Income-tax Act, 1961.

Religious or charitable trusts or NGOs are excluded from paying the Goods and Services Tax (GST) under the Income-tax Act of 1961 if they are registered under Section 12AA. Some of the services rendered by NGOs or charity trusts are tax deductible, nevertheless. Included in these services are:

- 1) A charity trust must pay taxes on the goods it sells.
- 2) Non-religious services that are not regarded as charitable activities under the aforementioned definition.
- 3) Renting out space for rentals that are higher than the threshold restrictions.
- 4) GST will be applied to the reverse charge mechanism for sponsored services.
- 5) The right to use advertising when holding events, functions, etc.
- 6) Donations for religious ceremonies are accepted with the explicit direction to publicise the donor's name.

3. Understanding the Income Tax Implications for Corporate Social Responsibility (CSR) Activities Eligibility of Expenditure towards CSR in Income Tax Act:

Certain provisions involving corporate social responsibility (CSR) spending by businesses are included in the Indian Income Tax Act, 1961. If a company spends money on corporate social responsibility (CSR) activities as described in Section 135 of the Companies Act 2013, those expenditures won't be regarded as expenses related to the company's business or profession for income tax purposes, per Section 37(1) of the Income Tax Act, Explanation - 2. Simply said, for income tax reasons, the costs associated with CSR initiatives won't be considered business expenses.

In general, businesses that incur CSR expenses in order to claim tax benefits must make sure that they do so in line with the Companies Act of 2013 and the Income Tax Act of 1961.

TDS applicability on CSR funds given to eligible implementing agencies as prescribed under sub-rule (1) of rule 4.

The purpose of non-Governmental organisations (NGOs), which do not function for profit, is to carry out philanthropic activity. When an NGO registers under Section 12AA, tax authorities recognise it as a tax-exempt organisation that has been established under

The CSR (Corporate Social Responsibility) fund, which is a voluntary contribution given by a corporation to social welfare activities, can be thought of as a type of grant. Contrary to conventional grants, however, CSR funds are frequently connected to particular social issues or initiatives, and businesses may have certain demands or expectations of the NGOs or implementing organisations receiving the cash. Nevertheless, CSR funding is frequently given without any thought of a commercial return and is meant to advance the greater good of society rather than make a profit.

Before a company donates money to an NGO in the form of a grant, there may be conditions attached, such as strict spending guidelines, budgetary restrictions, and reporting obligations. The grant should still be regarded as a gift agreement, not a professional service or consultant contract subject to TDS (tax deducted at source) and GST (goods and services tax) compliance, even with these stipulations.

Even the earlier "Technical Guide to Service Tax," released by CBEC in 2012, is clear on this point: "Conditions in a grant stipulating merely proper usage of funds and furnishing of account also will not result in making it a provision of service."

Therefore, it is important to understand that there shouldn't be any TDS (tax deducted at source) on funds provided from a company's Corporate Social Responsibility (CSR) initiative to an appropriate implementing agency or NGO that is registered under Section 12AA for a specific purpose, with the intention

of assisting the larger community rather than for profit-making purposes. However, TDS will be applicable if the monies given have a profit component.

4. FCRA Compliance Requirements for Corporates Involved in Corporate Social Responsibility (CSR) Programs

An organisation is categorised as a foreign source under the FCRA rules Act 2010 if more than 50% of its capital comes from foreigners, including foreign firms and FIIs.

If a company's CSR initiatives are carried out through an NGO or foundation, many in India might not be aware that FCRA requirements apply to those activities.

Companies that receive more than 50% of their investment from foreign sources are classified as foreign sources themselves under the FCRA rules Act of 2010. This covers Indian businesses that meet the requirement for foreign investment, such as Maruti Suzuki, ICICI Bank, HDFC, and others.

Therefore, businesses must make sure that every NGO or organisation they donate money to complies with the FCRA, as required by law.

CONCLUSION

To sum up, corporate social responsibility (CSR) is now an essential component of Indian business landscape, with businesses taking actions to assist society and the environment and becoming more conscious of their social and environmental impact. The CSR's broad nature includes environmental community development, ethics in business, and sustainability. Companies must adhere to the requirements outlined in the Companies Act of 2013 and the Companies (CSR Policy) Rules of 2014 in order to navigate the regulatory frameworks governing CSR operations in India. Businesses can get a more thorough awareness of their social and environmental obligations as well as their influence on society by looking at the different facets of CSR and learning about the laws that govern them. Businesses can solve social and environmental challenges by utilising their networks, skills, and resources through CSR, having a substantial positive impact on both society and the environment.

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