



Corporate Social Responsibility & Sustainable Development

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Abstract:

The idea of Corporate Social Responsibility otherwise called “CSR”, in India has been followed since ages, though not with the usage of such term . In India the association of the corporate with society is restricted to a few settled family organizations but it is generally viewed as a nation in which corporate social obligation assumes an important role in development. This article focuses on various aspects of Corporate Social Responsibility and role of corporates and government to deal with growing societal needs. The paper analyzes the new law on corporate social responsibility and brings out challenges in its implementation. The concept of corporate social responsibility is in continuity with sustainable development and modernization. Socially reasonable organizations expand the human capital of individual and also promote the social development. There are wide range of routes through which concept of Sustainable development can be understood, yet its main approach is to minimize the gap between upper class and lower class. The paper shall delve into the idea that environment and social security are not the responsibility of government alone. They can be successfully achieved by participation from the corporate world. The paper is an attempt to highlight the importance of Corporate Social Responsibility so that it ensures greater participation of entrepreneurs in protecting the eco-system of the country. It shall lead to enhancement in quality of life as well as overall developmental in the country. The study will also elucidate the contribution of CSR toward achieving the goal of sustainable development in India.

Key words: CSR, sustainable development, environment, society, development

INTRODUCTION

The idea of Corporate Social Responsibility (CSR), in India is not new and has been followed and acclaimed historically as well. Economists like Kautilya and other scholars in the West laid ethical standards of business and principles to work together. The idea of helping the poor fellowmen economically for promotion of social justice and economic equality forms

part of our ancient scriptures. These thoughts were given sanctity by religion and law. Concepts of “Zakaat”, under the Muslim personal law is a gift from earnings and profit to the poor and weaker sections of society. Correspondingly Hindus and Sikhs follow the concept of donation of one tenth of the earnings to commonly called “Dhramada” and the “Daswant” (Sundar, 2000).The CSR concept has been implemented in India from very long time in various forms though the activities were not

coined as CSR. They came in three generations as follows

1st Generation : Goals of companies were aimed towards commercial success and community activities were dealt as Philanthropic activity.

2nd Generation : CSR became an integral part of long-term business strategy.

3rd Generation : Focus shifted on social issues like poverty & environment

Through the insertion of section 135 in Companies Act, the CSR spending has been made mandatory for the companies. In today's world to come across the real importance of Corporate Social Responsibility, we need to have a look on the concepts like "Sustainable Development". Sustainable development in the Brundtland Report (Brundtland 1987) contains two key concepts: the concept of needs, and the idea of limitations. There are wide range of routes through which concept of Sustainable development can be understood, yet its main approach is the key to development and minimize the bridge between upper class and lower class. It should be "Development that meets the needs of the present without compromising the ability of future generations to meet their own needs" (Brundtland 1987).

CSR as a concept has been defined and interpreted in number of ways. The key drivers behind the CSR is synergizing ethical values and create a cohesive environment for society and sustainable world economy which shall provide a platform for markets, labor and civil society to work hand in hand. Businesses are now increasingly seen as key contributor to the development of social infrastructure and capital requirements (Cornelius et al. 2008). There is lack of transparency and trust between the general masses and the corporate world. It is desired that

corporate organizations are driven by their responsibility towards environment and society. It is also felt that there should be fair checks on their policies to execute social and ecological obligations. CSR and sustainable development are often thought to be contradictions. There are two kinds of assumptions. Firstly, it is felt that corporations are incapable of discharging social responsibility and have no zeal towards it. It is also felt that sustainability of the planet and its resources is generally incompatible with economic and social development.

REVIEW OF LITERATURE

The article has analysed international CSR norms. Companies Act of 2013 has been analysed in detail. It examines the rules notified by the Ministry of Corporate Affairs ("MCA") as envisaged under Section 135 of the new Companies Act relating to CSR, Schedule VII and the Companies (Corporate Social Responsibility) Rules, 2014 ("CSR Rules").

OBJECTIVE OF THE STUDY AND METHODOLOGY

This article focuses on various aspects of Corporate Social Responsibility and role of corporates and government to deal with growing societal needs. The main theme of the paper is that concept of corporate social responsibility is in continuity with sustainable development and modernization. The study is significant as it shall look into the different route through which socially reasonable organizations expand the human capital of individual and also promote the social development. It aims at understanding Sustainable development and minimizing the gap between upper class and lower class. The paper delves into the idea that environmental and social security are not only the responsibility of government but demand an effective participation from the corporate and business

world. The main objective is to highlight the importance of Corporate Social Responsibility as a tool to ensure greater participation of business entrepreneurs toward protecting the natural eco- system and enhancing the quality of life while undertaking a developmental activity. The study will also elucidate the contribution of CSR toward achieving the goal of sustainable development in India. Its main objective is to look into the efficacy of the legal framework. The methodology shall be doctrinal where the statutes and laws shall be analyzed.

LEGAL FRAMEWORK

International Norms

International CSR Norms can be divided into four parts namely:

- 1) The UN Global Compact and
- 2) The ILO norms.
- 3) OECD guidelines for multinational companies.
- 4) Other Norms

UN Global Compact (“UN Global Compact Ten Core Principles,” 2000)

In 2000, UN Secretary General Kofi Anan instituted UN global compact with the objective to have strong corporation between the United Nation and other business in the world and have a contribution in sustainable growth. This is the most popular initiative which is practiced and is similar to OECD and other ILO norms. Though UN global compact is based on 10 principles but mainly they are related to three core areas i.e. rights of the people, labor rights and environmental standards. The business must take necessary steps and ensure that the worker and the employees who are working under the organization, their rights are not abused. Specific business requires children for doing their job work. This type of business should

strictly discard child labor .The companies should design strategies to combat environmental related issues and must comply with the global standards. More than 130 countries and 5500 companies have joined the initiative. As there is no monitoring mechanism, the businesses are not expected to follow these principles completely.

ILO NORMS (“Tripartite declaration of principles concerning multinational enterprises and social policy (MNE Declaration) - 4th Edition,” 2014)

In 1977, the International Labor Office (ILO) adopted the Tripartite Declaration with an aim to have a co-operation between government and trade union and the companies. The policy was revised for the Multinational Enterprises in 2006 (“Tripartite declaration of principles concerning multinational enterprises and social policy (MNE Declaration) - 4th Edition,” 2014). The policy contains both ILO principles and national law standards and the governments have to go along them. The ILO norms deal with increasing job opportunities among the people. The businesses must ensure there must be proper training for the employers to enrich their skills. They should make them self reliant and capable. The importance of this policy is more as it does not give any minimum requirement which is to be followed. At the same time it gives independence to the companies to follow this declaration based on their self consumption.

ORGANISATION FOR ECONOMIC COOPERATION AND DEVELOPMENT (OECD) (Organization for Economic Co-operation and Development, 2009)2

In 1976, the Organization for Economic Co-operation and Development (OECD) has adopted some guidelines for multinational



enterprises. The principles are based on how the company should indulge in business practice which benefits the society and environment (Schiltens,2006). In 2000, these principles were amended by business, stakeholders and NGOs. However, these are not mandatory provision unlike in India. The rules are planned to advance the idea of supportable advancement and additionally to make motivations for expanding direct interests in creating nations. They likewise bolster multinational endeavors in their part as accomplices being developed. In this foundation, the Companies Amendment Bill was presented in 2011 which accommodated ordered CSR spending. Lastly the Companies Act, 2013 established the CSR laws.

OTHER NORMS

In 2011, The Human Rights Council has embraced principles like Protect, Respect and Remedy as UN's Guiding Principle ("UN Guiding Principles | Business & Human Rights Resource Centre," 2011). In 1997, Global reporting Initiative (GRI) was formed with the objective to be widely accepted in the world. The first guidelines came up in 2000, introducing three important principles on economic, environment and social development. The principles are voluntary in nature and not mandatory and it is becoming universally acceptable. In November 2010, ISO 26000 introduced Corporate Social responsibility for business. In light of the developing enthusiasm from organizations for corporate social obligation (CSR), the ISO 26000 rules were created in view of a global agreement on the significance and usage of best practices of social obligation. ("ISO 26000:2010(en), Guidance on social responsibility," 2011).

LEGAL PROVISIONS AROUND CSR IN INDIA

The highly examined and anticipated CSR rules were notified by the Ministry of Corporate Affairs ("MCA") on February 27, 2014 as envisaged under Section 135 of the new Companies Act relating to CSR, Schedule VII and the Companies (Corporate Social Responsibility) Rules, 2014 ("CSR Rules"). Central Government has the power under Section 469 and Section 467 the Companies Act to make and change rules, regulations and so forth and any provisions contained in any of the schedule under the Companies Act. Also, if any modification in the rules and schedule needs to be done then it must put before both the houses of parliament for its legitimacy. These rules have come into effect from 1st April, 2014.

Provisions under section 135 of the Companies Act, 2013, deal with the provisions of CSR. These provisions define the mandatory applicability of these provisions on certain type of companies. The Companies with an annual turnover of INR 10 billion or more or a net worth of 5 billion and more, or net profit of 0.05 billion or more during the financial year will have to compulsorily contribute towards CSR. Companies have to spend at least 2% of its average profits of last three years on the CSR activities. While determining 'Net Profits' the dividend income received from other company and the company's overseas profits need to be excluded. If the foreign company has its branch office or project office in India only then the CSR rules would apply. It further prescribes that the balance sheet and profit and loss account of Foreign company will be made according to section 381(1)(a) of the companies act. The Net Profit will be computed under manner laid down in section 198. The law is silent on computation of net worth or turnover for the foreign company.



The companies have to draft CSR policy keeping in view the rules and guidelines under schedule VII of the companies act and rules. The companies to whom CSR provisions are applicable are required to form CSR committee which shall constitute of three to four directors. The committee will form a CSR policy in accordance with schedule VII activities and send it to the board. It will also indicate amount of expenditure which could be incurred. The committee has to strictly take compliance of Schedule VII when deciding the CSR activities for the company. After the said process, the board will look into the recommendation of the committee and then the CSR policy will be approved.

The Companies may choose to carry out eligible activities either by themselves or in conjunction with other companies or through a specialized agency. CSR exercises can be embraced through a registered society or trust or a Section 8 Company under the Companies Act. CSR Rules have been designed to allow a third party to act as CSR intermediary for social responsibility spending. However these intermediaries would be required to have a three year experience in managing such projects and the funds are spent for the stated objectives. It would require adequate records to keep a track of the fund utilized for the purpose and reporting systems should be in place.

Companies can contribute to CSR activities which are approved by the committee with joint efforts of its subsidiary company or holding company or even another company. This was done through a recent amendment in Rule 4 of CSR rules. This also helps in building relationship with other companies through CSR activities. The companies have the option to collaborate with other companies. However both the companies have to check with its spending that they should be in accordance to the

Companies Act. It is the responsibility of the companies to distinguish its activities from its normal course of business. The underlying intent of the rule is that the benefits should reach to the general public. The companies can successfully contribute to CSR only if its employees have requisite CSR skills (Scholtens, 2006). The expenditure in providing such training up to a maximum cap five percent will come under CSR expenditure. The companies are also allowed to include administration expenses within the 5% cap and therefore it is upon the discretion of the companies to make their own CSR team or outsource to the third party. It is a social legislation it must be construed in liberal sense. Events like charitable award, compensation to its employee or the affected person etc do not come under CSR activities ("Ministry Of Corporate Affairs - Notices & Circulars," 2014).

CRITICAL ANALYSIS OF THE LAW

There are several unanswered questions which need to be clarified by the Government. During the final settlement of CSR fund if it is found to be surplus in that financial year i.e. a situation where the fund was made in excess, then the amount which is in excess will not be considered as business profits. However, the law is silent whether it will be carried forward to the next year. There could be situation where the business has suffered loss during the year, In this case no formula has been prescribed whether the company would still be liable to provide for CSR spend. There is a provision under Companies Act where the company can hire its agent in the form of NGO and that NGO would do the activity on their behalf. Therefore, the government should take a step ahead and review their CSR activities to find out who is really managing the CSR activities. According to the Section 135 of the Companies Act, 2013, the



committee must consist of three or more director. However, there is no guideline for private companies. The private companies could have two directors. There is no clarity whether under this situation provisions will be relaxed or the private company has to increase the number of its directors to three. In a situation where the liquidity of the company is low, and profits are high, the authorities need to clarify, whether the company would get some extra time to free their money.

There is no penalty clause in the Companies Act. Introduction of penal provisions would help in implementation. Provisions should be made for those companies who wish to contribute to the society but due to some sufficient reasons and in good faith are not able to spend money (Primeaux, 2005) .The liability must be fixed for the Board and powers and responsibility should be clearly defined for the CSR Committee. Special tax rebate should be announced so as to attract the companies to spend towards CSR.

CHALLENGES TO CSR

There are arguments against CSR spending saying that government is running from its responsibilities of growth, development and shifting the same on companies and firms. CSR process requires team efforts(Lindgreen et al. 2009).Just spending money would not make it any good. To promote CSR in its right spirit there is a need to create an enabling environment for development of corporates and society hand in hand. The government should strive to provide low risk and cost options to the entrepreneurs and also provide for system of reward and growth opportunities for competitive and responsible private enterprises; Government agencies come across challenges in promoting CSR. There needs to be identification of

priorities, creation of awareness and incentives, and also support, and mobilization of cross sectoral resources. This needs cooperation that is meaningful in the national context. It also requires improvement in the existing initiatives and capacities. Development and sustainable growth are areas of concern for each one of us. Target of development and sustainable growth cannot be just achieved by governments and legislators; this can be only done with the aid and cooperation of civil society. CSR is one such step in this direction (Singhal 2014).

The Indian government is aware of the increased need to open its gates into untapped territories for foreign players.To further this, the government has come out with regulations by incorporating specific provisions in the Companies Act 2013 which require mandatory expenditure by wealthy corporates towards social activities.The central government has made its intentions clear on stringent implementation of CSR provisions It emphasizes that corporates have social responsibilities as well and they need to focus on sustainable growth in harmony with society⁵. To further enhance the reach and spread learning on CSR, the government is planning to have a CSR portal which shall be “one stop virtual shop” for all CSR related needs of corporate and other stakeholders. The portal will be set up by Indian Institute of Corporate Affairs (IICA) under the purview of MCA⁶.

SUSTAINABLE DEVELOPMENT THROUGH CSR

India is at the edge of demographic profit, and there is requirement for the production of human and physical money to harvest its remunerates. India needs investment in sectors like education, health, infrastructure etc. It is the need of hour to shift some responsibility directly to corporates for investing money in some valuable sectors



which would help in the growth. There are 3 fundamental components which are highlighted by Brundtland Report (Brundtland, 1987) with regards to environment, social equity and economic growth.

Main arena of Sustainable development is conservation and rational use of resources and therefore it requires conservation of resources. CSR activities towards these goals are adopted by companies then it would help in continuing the established principle of sustainable development. The companies can use different methods like reducing carbon emission, safeguards measure for the community, planting trees and other eco-friendly methods (Branco & Rodrigues, 2006). Companies can take initiative of promoting gender equality in villages where it is seen that large number of cases reporting to female feticides turns up e.g. Tata Motors has introduced various scholarship programs for development of children through value education. It has also contributed in giving study material at low level schools in rural area. It is an important principle and developing country should focus and take necessary steps on economic growth. The companies can take initiative under this aspect by contributing nation on Economic growth.

CONCLUSION

There is a very thin line of distinction with regard to the meaning and intent of the two concepts. Hence, it is important that the intent be given precedence over the literal meaning to avoid drifting away from the underlying objective. There is a however a conceptual differences between the two terms. Sustainable development as a whole is broad concept and its principles are relevant to an entire nation in the matters relating to environment and conserving resources for use by future generation. It is oriented more towards people who are yet to

come up whereas CSR deals with people of present generation. It works on how to narrow the gap between upper class and lower class, removing economic disparities and increasing prosperity of economical weaker sections (Van Marrewijk, 2003).

With shift of responsibility to corporate there is a chance to plug leakages due to corruption and inefficiency in bureaucracy. The Corporate sector is an important segment of maintainable financial development in a worldwide economy. However the flexible multinational partnerships need to work universally (S.M.2005). It conveys with it an obligation to help guarantee that the social and ecological expenses of their business exercises would not exceed the advantages. Before 2012, there were companies who use to contribute to the social development but with introduction of mandatory CSR provision, the intention towards its stakeholders and other community people has changed (Cordonier Segger, 2004).

Countries on the road to development needs CSR initiatives from the companies and firms because of a strong relationship presence between social, performance and financial performance. Local community support can be obtained if they can be assured that this infrastructural development will lead to more employment opportunities, proper housing facilities and education of the children. The Two percent mandatory CSR spending would bring India equivalent with the CSR expenditure in United States. In the country like India it is very difficult for the government to impose steep taxes or comprehensive regulations. It is because there are so many corporate which are having different level of responsibility towards stakeholders in terms of social, economic and legal but the policy remains the same. Sustainable development is wider goal where all



nations participate and CSR is one of its parts. Though Sustainable development can exist without CSR but CSR cannot exist without Sustainable development.

The desire of big corporates to earn more profits has made this earth vulnerable to many social and environmental challenges and at the same time also widens the gap between rich and poor. To deal with this problem, presently the Government of India has taken some crucial steps and introduced the responsibility on corporates. The corporates are one of the key players for the sustainable development. They are the finance controller, who works with other players like government or NGOs to contribute for the betterment of society.

SD and CSR have converged around the world as the impact of globalisation is felt. India faces the dual challenge of economic growth and sustainable development. CSR is increasingly seen by the Indian government as a means to finance and achieve SD. The Indian government has made a major policy change. Earlier CSR was voluntary and strategic in nature in India. The change in Companies Act has roped in the public sector in the governance of sustainable development. This is an innovative step and first of its kind public policy approach to link CSR and SD. This has vast implications for all stakeholders. Corporate financing of sustainable development through CSR can creatively engage corporate talent pool and resources. The innovative techniques will lead to more innovation and faster growth. (Ray, 2013). To supplement this approach, Section VII of the Companies Act has widened the ambit of CSR activities. These activities now extend to include poverty alleviation programmes, promotion of DPSP of education to all (interalia Right to education), upliftment and empowerment of women, protection of environment etc. India needs resources and steps

to be taken in these areas so as to promote holistic development of society because our structure of society is interconnected and interdependent. Corporates on the other hand need human resource, raw material and a government support to carry out business. Recent surveys have also shown that consumers have preference towards the products of those business entities which are more sensitive towards CSR. It is therefore for the best of the society that corporate and social interests are harmonized with larger public interest. It will lead to the greater welfare of society as well as corporate (Corsi, 2015). In fact Corporates should have CSR philosophy embedded in it. Their primary objective should be to accelerate industrial and economic development with its focus on creation of employment, balanced regional development & justice to weaker section of the community. They should take CSR approach as commitment sustainability and responsibility.

As the Indian economy is progressing the relationships between various stakeholders in business are becoming interdependent. They need to also be harmonious and transparent. Countries public sector enterprises have one of the best CSR rankings in the world and some of the private sector firms have equally earned laurels for their efforts in the domain of education, health and welfare oriented schemes. Big welfare schemes like National Food security Act needs active financial supports from corporate to make such schemes a success. Non-governmental organizations, civil society and media have further enhanced the scope for greater cooperation and harmony between corporate and the society in which they operate. Finally, we have a welfare oriented democracy in which our political classes should be sensitive towards the welfare of the common masses. The main mantra in today's world for a company to be successful is by not only earning great profit,

which is a must for every corporate but contributing to social development also. Mandatory CSR proposal can be seen as a product of India's complex set of economic pressures and tensions. It is one of the few proposals in the Companies Bill that contains a solution to India's present economic needs (Dodh, Singh, & Ravita, 2013).

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