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Corporate Social Responsibility: Companies Bill, 2013 - The Game-Changer

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Abstract

In the wake of globalization and pressing environmental issues, the recognition towards the part of corporate entities in extensive social standard is experiencing a change. In the past, social order and state have advanced to a desire before Corporates to incorporate the social obligation angles in their business cycles. This situation influences a vast scale of endeavors, as well as incorporates small scale firms. The underlying supposition that Corporate Social Responsibility (CSR) is restricted through which organizations can show their duties towards being socially capable stands out. Truth be told, CSR as a vital part of corporate world has a twofold impact regarding making goodwill to the organization and as a social and budgetary mediation to realize substantial change in the life of individuals from diverse fields. The passing of the Companies Bill 2013 has opened up a new world in terms of CSR. This paper looks into a few cases of CSR in India and looks into further possibilities in the future. It also talks about the provisions under the bill and how it would change the face of CSR in India.

Keywords: CSR; Companies Bill 2013; Companies; Philanthropies

Introduction

A description of the term CSR is the duty of organizations to carry on morally and help investment improvements, while enhancing the personal satisfaction of the workforce and their families and of nearby groups and society. In the recent years an expanding number of organizations worldwide have begun advertising their business through Corporate Social Responsibility procedures since the clients, the general population and the moguls anticipate that it will act in their favor.

CSR is seen as being the path through which an organization accomplishes an equalization of investment, natural and social goals. The "Triple-Bottom-Line-Approach", which in the meantime tends to the desires of shareholders and stakeholders.

In the Asian context, CSR generally includes exercises like reviving villages/towns for comprehensive improvement, in which they give restorative facilities, construct schools and houses, and help towns get confident by showing them professional and business opportunities.

The Companies Bill, 2013

The Parliament has passed the new Companies Bill, which mandates that organizations of a certain size use 2% of their three-years' worth of average profits towards Corporate Social Responsibility(CSR), is a historic point as it makes India one of the countries to have social welfare as a component of Company statute by law.[1]

Organizations having total assets of at least Rs 500 crores or having a minimum turnover of Rs 1,000 crores or those with at least net profit of Rs 5 crores, need to spend on CSR. Notices have been issued for Section 135 and Schedule VII of the Companies Act, 2013, which identifies with CSR usage by companies. [1]

The new rules, which will be in force from 2014-15 [2], likewise require the organizations to set up a CSR committee of their board members, including no less than one independent director. A definitive decision on the way to use their cash towards CSR exercises will be with the board of the company. [1]

With regard to failure to spend the requisite amount, the bill states that the company shall have to provide sufficient reasons for not spending the allocated CSR budget. While no specific penalties are contemplated in the Bill with respect to CSR, sections 450 and 451, provide for general penalties for flouting the rules and repeat offences. Further, the CSR policy is to be disclosed on the company website. [1]

Components of CSR

Livelihood improvement and rural development projects, promoting preventive health care and sanitation or making safe water accessible would be thought of as CSR activities. Working towards protection of national heritage, art and culture as well as restoration of buildings and sites of historical importance and works of art, renovating public libraries, promotion and development of ancient arts and handicrafts would additionally fall underneath CSR. Various activities geared towards reducing inequalities faced by socially and economically backward groups have been also included. [3]

Measures for the benefit of armed forces veterans, war widows and their dependents, homes and hostels for girls and orphans, old age homes, day care centres and such alternative facilities for citizens would be thought of as CSR work. Other CSR activities would be ensuring ecological balance, protection of flora and fauna, animal welfare, agro-forestry, conservation of natural resources and maintaining quality of soil, air and water. [3]

As per the notice, trainings to promote rural sports, nationally recognized sports, Paralympic sports and Olympic sports, and contributions or funds provided to technology incubators settled in educational institutions that are approved by the central government would be CSR. [4]

Implications for the Companies

The new bill has two important provisions with regard to CSR. The first is that the board is mandated to ensure that the company will spend on the CSR.

Second being that they have to give an explanation regarding the spending. So, effectively although there is no mandatory obligation on the company, but a responsibility is cast upon the board members. An explanation that is unsatisfactory can empower the regulator to question the roles and duties of the directors making it not just a provision on paper but an obligation on the board, which they may not be able to get away from easily.

The idea has also been to make the spending transparent and more than just ad hoc philanthropy. By mandating a CSR team, with 3 directors including one Independent Director, a CSR strategy, ensuring implementation and monitoring of results are all in the direction of pushing companies to develop a management level approach by targeting operational risk mitigation through CSR, as an effective tool. They may be further propelled to understand ground realities, leading to an amalgamation of stakeholder interests with the company's long term goals. This will be an optimal concept, enhancing welfare of all the concerned entities.

The Result

Around 8,000 companies would come in the Bill's ambit and its mandate would translate into a calculable CSR payment of Rs 12,000-15,000 crores annually. So to maximize the impact of their CSR, Indian companies ought to look on the far side of the traditional lens of "charity" and develop unique CSR methods with potential for large-scale social and economic impact. Personal philanthropies created by India's business leaders will be looked at as models for CSR. The primary step towards developing a CSR strategy is to outline a maximum of 2-3 social problems.

Companies through adoption of shared worth concepts might tackle challenges of poverty and deficiency in Asian countries. Leaders of the trade endowed with correct mental attitude have the potential to become world leaders in harnessing CSR for inclusive growth and development.

In India, the Azim Premji Foundation opted to specialize in bringing up the standard of primary education, and has maintained this effort for over 12 years. [5]

In order to ensure well governed and successful CSR initiatives, companies will have to establish and hire an appropriate team of professionals: Tech Mahindra hired Loveleen Kacker, a former senior IAS officer and knowledgeable in children's education, to lead its foundation. [6]

At HDFC Bank, over 5,000 employees contribute around Rs 1 crore a year through payroll giving. [7] Successful businesses are all driven by measurable goals, strong monitoring processes and data-driven decision-making.

The Azim Premji Foundation recruited Dilip Ranjekar and Anurag Behar, senior executives from Wipro, to lead efforts towards large-scale impact in education. [8, 9] Even at full scale, India's CSR pay will be nothing when compared with government expenditure on social schemes. However, even these funds have the potential for large-scale impact as there has been restricted scope for innovation in the govt. system. Corporates ought to view CSR efforts as R&D by piloting innovative models and gathering proof of the impact.

Government resources can then be used to help smaller operative models. Businesses should not feel pressured to take on the operational responsibility of every initiative they undertake. It's wiser to operate CSR initiatives that are tightly linked to the core line of business and outsource alternative initiatives to non-profits with expertise.

The Piramal Foundation operates its healthcare initiatives internally and for its education-related activities, it backed two capable social entrepreneurs, Madhav Chavan of Pratham and Aditya Natraj of Kaivalya Education Foundation. [10] For giving to be a company's culture, employees should be involved in CSR. At Tech Mahindra, associates interact with communities through partner NGOs. Their CSR goal is to urge 100% of company associates to volunteer 10% percent of their time by 2015. [11]

Challenges Ahead

The first and most important challenge is that of political pressure by local politicians especially for PSU’s to spend in their constituencies. The mandatory spending and the essential baseline surveys along with social impact assessment will lose its meaning if the initiatives can’t be directed in areas which need them the most with regard to mitigation of operating risks.

Another concern is that a mandatory spending is nothing but tax. Hence, mandatory CSR increases the country’s already high corporate tax, implicitly. It stands at 32.5% which itself is higher than the global average of 24.09 %. The figure for other countries, China, Vietnam and Indonesia stand at 25%. Thailand and Turkey are at 20%, South Africa 28% and Nigeria at 30%. Increase in the corporate tax may hamper the country’s ranking as an investment destination, leaving India at a competitive disadvantage in the global marketplace.

An added issue is the monetization of the Returns on Investment (ROI) for the company’s initiatives. This is because CSR based initiatives may have a huge gestation period and so calculating returns on investments like scholarships for deprived sections or benefit to the environment by adoption of cleaner fuels etc. may be lengthy propositions.

Companies may be forced to do some reshuffling within the organization which could lead to diversion of its manpower away from the core activities. Because of lack of expertise, this will further pave way for CSR consulting in huge proportions. Hence, the process of empanelment of expert agencies into the CSR framework of an organization, must be eased.

Finally, though the Companies bill is a great step forward, efforts must be made to clear the haze around the kind of activities that may be taken up by companies under CSR to prevent the initiative from getting mired by emergence of corruption with companies trying to 'greenwash' their profitable activities under the garb of CSR.

Conclusion

The new Companies Bill should galvanize Companies into collaborative action for real change. For example, several companies specialize in education in their CSR however there are few instances of collaboration. Corporates, who have a vested interest in the quality of education as that's the most powerful tool towards the creation of a dynamic work force, can come together to change the Indian school education system.

A properly implemented CSR conception can bring on a variety of competitive benefits, such as enhanced access to capital and markets, increased sales and profits, operational cost savings, improved productivity and quality, efficient human resource base, improved brand image and name, enhanced customer loyalty, better decision making and risk management processes.

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