

How COVID Responsible the Corporate is ?

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Corporate Social Responsibility is an approach to reward the general public which bridges by corporate substances for everyday business activities.

In India, with the enactment of the Companies Act, 2013, it is compulsory for Companies to take up CSR projects on social welfare activities. India is the only country that has regularised as well as mandated CSR activities to be undertaken by certain categories of companies. In the present times, the scope of CSR activities has diversified and is playing an important part in achieving sustainable development goals and private-public partnership in nation-building.


Talking about applicability, Section 135 of the Companies act, 2013 states that every company having a net worth of Rs. 500 Crs. or more, or turnover of Rs.1000 Crs, or more or a net profit of Rs. 5 Crs, or more during the immediately preceding financial year (FY) shall constitute a CSR Committee. Every Company who is required to constitute CSR Committee and has a compulsory requirement of Independent Director shall constitute CSR Committee with a minimum of three directors out of which one shall be Independent Director, but if a company is not required to appoint an independent director under section 149(4), No Independent Director requirement arises in the CSR Committee.

The Board of every company referred in the above para, shall ensure that the company spends, in every financial year, not less than two percent of the average net profits of the company earned during the three immediately preceding financial years or where the company has not completed three financial years from its incorporation shall spend 2% of immediately preceding financial years, for Corporate Social Responsibility Policy. Provided that the company should prefer to spend on local area and areas around it where it operates, for spending the amount fixed for Corporate Social Responsibility activities:

Certain Examples of CSR Activities prescribed in Schedule VII of the Companies Act, 2013: Get rid of Hunger and Poverty, Encouragement of Education, Contribution to PM CARES Fund, and so on

In awake of Covid, Government brought the inclusion of expenses related to drugs, vaccines allowed as CSR. Any company involved in research and development commotion of the new vaccine, drugs, and medical devices in their ordinary course of business may undertake research and development activity of new vaccine, drugs, and medical devices related to COVID-19 for financial years 2023-22, 2022-21, 2021-20 subject to the conditions that-



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- Such research and development(R&D) activities shall be carried out in collaboration with any of the institutes or organizations mentioned in item (ix) of Schedule VII to the Act;
 - Details of such activity on CSR shall be disclosed separately in the Annual report included in the Board's Report;

Recently MCA notified CSR circulars and notification for relaxations & brought amendments about which key points are discussed below:

Firstly, **formation of the committee**, where the CSR amount to be spent by a company does **not exceed fifty lakh rupees**, the requirement to constitute the CSR committee under the provision of the Companies Act **shall not be applicable** and functions of such committee shall be discharged by the Board of Directors of such company.

Secondly, **any amount remaining unspent**, under any ***ongoing project***, undertaken by a company in pursuance of its CSR Policy, shall be transferred by the company within thirty days from financial year (FY) end to a different account to be opened by the establishment in that behalf for that FY in any scheduled bank to be known as the **Unspent Corporate Social Responsibility Account**, and such amount will be spent by the company in an undertaking of its obligation in the direction of the Corporate Social Responsibility Policy within three financial years from the date of transfer, if a company fails to do so, the company shall transfer the same to a Fund defined in Schedule VII, within thirty days from the date of completion of the 3rd FY. This notification is applicable with effect from 22.01.2021. Further for ease, refer to notification,

Based on the above it means if any unspent amount at the end of FY the company should ideally make a provision for a CSR unspent amount. After applicability of the above notification, a company should provide provision for CSR unspent amount in its books of Account and auditors should also verify whether the company has made adequate provision for the unspent amount or not

Further, if the Company does not have any ongoing project it must within six months of the expiry of the previous financial year transfer the unspent amount to a fund such as eradicating hunger, Education, disaster management, and so on specified in Schedule VII. the list is not exhaustive, refer schedule VII for further information.

Thirdly, in the context of Filling forms, the Company and their eligible intermediaries, who wish to take any CSR activity, shall register themselves with the Central Government (CG) by filing the complete form CSR-1 by electronic means with the registrar, starting from the 1st April 2021. The Form shall be signed and submitted by electronic means by the entity and shall be verified digitally by a Chartered Accountant (CA) in practice or a Company Secretary (CS) in practice or a Cost Accountant in practice. A distinctive CSR Registration number shall be generated by the system automatically.

In conflict, if a company is in default in compliance with the provisions and rules of the CSR, the company shall be liable





the penalty of double the amount required to be transferred by the compan

- ▶ to the Funds defined in Schedule VII or
- ▶ the Unspent Corporate Social Responsibility Account, as the case may be, or
- ▶ one crore rupees
whichever is less

every single officer of the company who is in default shall be liable to a penalty of one-tenth of the amount mandatory to be transferred by the company to those Fund defined in Schedule VII, or the Unspent Corporate Social Responsibility Account, as the case may be, or 2 lacs rupees, whichever is less.

AMRG Take :

Inclusions of expenses and a relaxing bucket of regulations will bring equilibrium level and alleviate society to its new normal. Earlier, it was not clarified about the treatment of the unspent amount of CSR expense but now MCA has brought clarity on the long going debate “unspent amount of CSR expense”. Companies with the *ongoing project* are required to transfer the unspent account in a separate account and provision shall also be made for the same in the books of accounts, and the same shall be either utilized within 3 FY or shall be deposited to any fund specified in Schedule 7 within six months from the date of completion of the 3rd FY.

The hit of covid 19 impacts the Indian economy, Government of India lead the way to align a win-win situation for society as well for companies by relaxing CSR committee formation, the inclusion of expenses of covid related drugs & vaccines, an unspent amount set off in future period and so on.



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