

Changing phases of Corporate Social Responsibility in India (A Special Reference to Companies Act 2013)

Sharanjit Kaur

*Asst. Prof. Doraha Institute of Management
& Technology, Doraha, Ludhiana. Punjab
India*

Dr. Bindiya Kansal

*Asst. Prof. Guru Nanak Institute of
Management & Technology, Ludhiana.
Punjab, India*

Abstract: CSR in India has traditionally been seen as philanthropic activity. The concept of CSR is slowly evolving with the development of India. It moves from charity & philanthropy to women empowerment & rural development and then to institutional building to community development. All the companies were spending funds on CSR according to their own will. Even the reporting was also done differently with different ways but the new companies act was passed by the Government and new CSR provisions are there for the companies. This paper begins by building a common understanding of the concept of CSR and the intent and provisions of the Companies Act, 2013. It then goes on to bring out the key aspects of clause 135 of the Companies Act, 2013 and the recently released draft rules, and highlights its implications to companies.

Key words: CSR, India, companies, Companies Act.

I. INTRODUCTION

Corporate Social Responsibility is a term describing a company's well being of all the stakeholders. CSR is a company's obligation to be accountable to all its stakeholders in all its operations and activities. More and more Indian business organizations embrace the practice of CSR under different names such as corporate sustainability, social responsibility, corporate citizenship, corporate conscience, stewardship, social audit, issues related to stakeholders, and social performance. .

Objectives & Purpose of the study are: The total paper is divided into three sections according to the following objectives.

- To understand the concept of CSR.
- To know the changing phases of CSR in India.
- A special reference to Companies Act 2013 (key aspects of clause 135 of the act)

CONCEPT OF CSR: The concept of CSR has gained immense popularity but there is a lack of agreement on what it really means. There are different definitions given by different authors, some of definitions are: *Votaw (1973)* observed that 'the term is brilliant one; it means something, but not always the same thing, to everybody. To some it conveys the idea of legal responsibility or liability; to some others it means socially responsible behavior in an ethical sense; to still others the meaning is transmitted that of 'responsible for', in a causal mode; many simply equate it with a charitable contribution. (*Wood 1991*) states that the basic idea of corporate social responsibility is that business and society are interwoven rather than distinct entities. (*Frederick et al. 1992*) stated that CSR means "A corporation should be held accountable for any of its actions that affect people, communities and the environment". (*WBCSD 1998*) defined CSR as 'the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large. (*Ferrell et al. 2002*) have defined CSR "as an organization's obligation to maximize its positive impact on stakeholders and to minimize its negative impact, whereas business ethics comprises principles and standards that guide behaviour in the world of business." (*Kotler & Lee 2004*) define CSR as commitment to improve community well being through discretionary business practices and contributions the corporate resources. (*Bursa Malaysia 2006*) defined corporate social responsibility as open and transparent business practices that are based on ethical values and respect for the community, employees, the environment, shareholders and other stakeholders. This CSR framework was designed to deliver sustainable value to society at large. CSR supports triple bottom line

reporting which emphasizes the economic, social and environmental bottom-line wellness. (*Thorne et al. 2008*) has defined CSR “as the adoption by a business of a strategic focus for fulfilling the economic, legal, ethical and philanthropic responsibilities expected by its stakeholders”. Stakeholders include shareholders, workers, community at large, climate, natural environment and resources. (*Eufin.org 2009*) defined CSR as a concept companies take themselves to reflect social and environmental concerns with their activities and in their relationships with the various corporate stakeholders.

Changing phases of CSR in India - In India, the evolution of CSR changes over time in cultural norms of company’s engagement and the way business develop impacts on communities, cultures, societies and environment in which these companies operated. Reporting is generally done at present can be construed as voluntary activity. Governments as well as regulators have responded with the National Voluntary Guidelines for Social, Environmental and Economic Responsibilities of Business or the NVGs (accompanied by the Business Responsibility Reports mandated by the SEBI for the top 100 companies) and the CSR clause within the Companies Act, 2013 are two such instances of the steps taken. A brief history of CSR is given below.

In 1850 during industrialization charity and donations were the main matters of CSR. In initial years there was little documentation of social responsibility initiatives in India. Since then there is a growing realization towards contribution to social activities globally with a desire to improve the immediate environment (*Shinde, 2005*). It has also been found that to a growing degree companies that pay genuine attention to the principles of socially responsible behaviour are also favoured by the public and preferred for their goods and services. This has given rise to the concept of CSR. During independence stress was on the women empowerment and rural development. In the era of liberalization companies were able to contribute towards growth and for social cause. Several independent organizations and professional bodies are trying to create consciousness on reporting on CSR issues. In 1986 The Environment Protection Act states that each “covered organization” should submit an annual environmental audit report, to include water and raw material consumption, to the State Pollution Control Board.

Global Reporting Initiatives (GRI) has played the pioneer role through the introduction of “sustainability reporting guidelines” –the new dimension to reporting practices. Since its founding in 1997, the GRI has been addressing the need for standardized approaches to corporate sustainability reporting. In 2006, GRI published Version 3.0 (G3) of its Sustainability Reporting Guidelines emphasizing performance indicators, which contain a separate section titled “Human Rights” with nine performance indicators GRI has suggested about a completely new kind of reporting called ‘**sustainability reporting**’, (a separate report than the annual report) in which issues related to corporate social responsibility will be disclosed. The companies can also report on these topics in their web sites also. But producing a separate report needs expertise and cost also. So most of the companies are using annual reports to disclose information related to CSR.

Companies Act of 2008 is passed and replaces the Companies of 1956. Under Section 217 of the 2008 law, the Board of Directors Report shall contain information on conservation of Energy. In 2009 India’s Ministry of Corporate Affairs issues voluntary Guidelines for Corporate Social Responsibility to encourage Indian corporations to improve CSR. In 2011 The Securities and Exchange Board of India mandates listed companies to report on Environmental, Social and Governance (ESG) initiatives undertaken by them. These guidelines are a refinement of the Corporate Social Responsibility Voluntary Guidelines, 2009, and have been framed after a consultative process of discussions with various stakeholders. Nine key principles have been identified in the above mentioned guidelines with specified core elements in respect of each of these nine principles, suggesting certain do’s and don’ts for companies alongside these respective principles. These are as under.

1. Businesses should conduct and govern themselves with Ethics, Transparency and Accountability.
2. Businesses should provide goods and services that are safe and contribute to sustainability through out their life cycle.
3. Businesses should promote the well-being of all employees.
4. Businesses should respect the interests of, and be responsive towards all stakeholders, especially those who are disadvantaged, vulnerable and marginalized.
5. Businesses should respect and promote human rights.
6. Businesses should respect, protect, and make efforts to restore the environment.
7. Businesses, when engaged in influencing public and regulatory policy, should do so in a responsible manner.
8. Businesses should support inclusive growth an equitable development.
9. Businesses should engage with and provide value to their customers and consumers in a responsible manner.

According to the report of institutional investor advisory services “Current CSR disclosure levels are poor for most companies.” There is a need for significant improvement in the quality of the disclosure on CSR activities- particularly with regard to quantum of spending.

Companies Act 2013 The company’s bill was passed by the Lok Sabha on the 18th December 2012, but it was ratified by the Rajya Sabha on 8th August. On September, 2013 speaking at the ‘National Summit in CSR’ Mr. Sachin Pilot said the industry would be free to choose CSR programs & strategies best suited to their company’s philosophy & business.

According to sec 135, chapter 9 obligations / requirements of the new act are:

II. COMPANIES COVERED:

The companies having for any financial year

- A net worth of at least Rs. 500 crore.
- A turnover of at least Rs. 1000 crore.
- A net profit of at least Rs. 5 crore.

III. AMOUNT REQUIRED FOR CSR SPENDING:

Not less than two percent of company's average profit for its preceding three financial years.

IV. CSR ACTIVITIES TO BE DONE

CSR funds must be spend in India on the following activities which are related to

- Ending hunger & poverty
- Promoting public health
- Supporting education
- Addressing gender inequality & empowering women
- Funding cultural activities & arts
- Combating HIV, AIDS, malaria & other diseases
- Contributing to prime minister relief fund or any other welfare fund
- Social business projects

V. OTHER REQUIREMENTS:

- **Regarding reporting of CSR:** To prepare a detailed report, in particular format, about the CSR policy, the CSR expenditure, the composition of CSR committee, CSR projects and to include this report in annual report of the company.
- **CSR committee & CSR policy:** To appoint a CSR committee consisting of at least tree directors out of whom at least one independent director is the requirement of the law. The CSR committee is required to recommend a formal CSR policy to the board, indicating the activities as specifies in the schedule of the act. Committee will regularly monitor the CSR policy and recommend the amount to be spend on the activities specified in the policy.
- **Failure to comply:** The board is required to disclose the fact if the minimum CSR amount is not spent with the reasons therefore.

The new rules in the companies act have come into effect from April 2014. According to the officials 'Corporate Affairs Ministry' is likely to come to come out with the detailed FAQ on CSR activities by August.

Conclusion: The history of CSR in India runs parallel to the development of India. Now it is moving from voluntary to mandatory concept .The Companies Act provides an excellent framework & point of departure for corporate social responsibility.

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