

Trusteeship & CSR

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TRACING PHILANTHROPY ROOTS in corporates

- ❑ Traditionally CSR undertaken by city *seths* through dharmshala, pios, etc. ~ based more on religious sentiments
- ❑ Gandhiji's call for '[Trusteeship](#)' was an important part of evolution of CSR in country.
- ❑ Several industrialists of this era have contributed to welfare (GD Birla, Jamanalal Bajaj, Sarabhai, Murugappa Group, to name a few)
- ❑ Institutions like [BITS Pilani](#), [IIM Ahemdabad](#) (through the efforts of Vikram Sarabhai & Kasurbhai & Lalbhai), [Physical Research Lab](#), Shri Ram College, etc are all result of initiatives of industrialists
- ❑ 50s -70s was lull period for CSR
- ❑ Huge growth in CSR since the industrial growth has picked up
- ❑ FY 2014, after compulsory CSR, it is expected to grow exponentially.

Legal basis of CSR

- ❑ Though in past no legal requirements still corporates generally try to provide 0.5% -2.0% of their PAT for CSR. Exceptions exist where 3% - 9% has been provided. Even loss-making companies contributing.
- ❑ Clause 135 determines eligibility for CSR - organisation satisfying any of three conditions:
 - Minimum Turnover Rs 1000 crore, or
 - Networth Rs 500 crore, or
 - Net profit of Rs 5 crore or more in any previous three financial years. (see Not. 18/6/14) Profit Eligibility Test: Check if it has made a net profit of more than Rs 5 crore in any of its last three years.
- ❑ How much CSR is to be spend : 2% of the average net profit (S.198) of last three financial years.
- ❑ Shortfall to be disclosed alongwith reasons.

Activities to be covered under CSR

- Board to formulate policy to indicate activities to be undertaken. Presently permitted activities covered under Sch VII.
 - Eradication of extreme Hunger & Poverty, malnutrition, preventive health care, sanitation, drinking water.
 - Education including special education and employment enhancing vocation skills, among children, women, children & elderly, differently abled and livelihood enhancement projects
 - Gender equality and women empowerment, setting up homes & hostels for women, orphans, elderly and for reducing inequalities faced by socially and economically backward
 - Environment Sustainability, animal welfare, agroforestry, maintaining of quality of soil, air, water
 - Heritage, libraries, traditional arts,
 - War veterans & widows
 - Sports
 - Technology incubators
 - Rural development projects
 - PM or similar other Relief funds set up by central govt.
 - Any other matters as prescribed.
 - 6th Aug 2014 adding (xi) slum development area
 - 24th October 2014 addition of Swachh Bharat Kosh Fund & Clean Ganga Fund

Board's Responsibilities

- ❑ Formulate a CSR Committee
- ❑ Consider CSR Committee's recommendations and approve CSR Policy.
- ❑ Disclose the policy on company's website in the format prescribed in Rules.
- ❑ To ensure that the company spends required amount of expenditure.
- ❑ Ensure that activities as listed in the policy are undertaken.
- ❑ Monitor CSR Policy from time to time.
- ❑ Board accountable for ensuring mandatory spending otherwise explain through Directors' Report.
- ❑ Board Responsible for reporting on CSR in prescribed format through Director's Report.

CSR Committee's Responsibilities

- ❑ Committee shall formulate a CSR Policy, identifying the activities (domains/sectors) to be undertaken as per Sch. VII.
- ❑ Committee to recommend project /activity-wise expenditure.
- ❑ Committee to set-up a transparent monitoring mechanism (Rule 2) to ensure that funds allocated are spent as intended.

CSR Policy

- ❑ Policy to include not only activities (sectors) as specified under Schedule VII but also list of projects / programmes, areas and implementation schedules.
- ❑ Policy to identify what will constitute CSR amount (corpus).
- ❑ CSR to be preferred within vicinity of the organisation's set-up.

Legal basis of CSR.....*cont'd*

- ❑ Profits of overseas branch / company not be considered for CSR.
- ❑ Foreign companies covered for their Indian operations.
- ❑ What is not CSR :
 - Not covered by Sch VII,
 - Any expenditure in the normal course of business
 - Any expenditure or required due to a law
- ❑ Accounting treatment – [Guidance Note issued by ICAI](#) - to be disclosed as a separate item on Profit & Loss Account.
- ❑ Excess expenditure cannot be carried forward (as per ICAI)
- ❑ Contribution Corpus also allowed, as long as Trust is exclusively created for implementing CSR.
- ❑ Can be implemented through own Trusts or through other NGOs (with 3 years track record in the area of activity being considered). Can also pool with other corporations Trusts.
- ❑ Give preference within vicinity of the operational area
- ❑ Once a company starts CSR, it must continue until it is no longer eligible continuously for 3 years.

Reporting Framework (through Directors' Report)

- ❑ CSR Policy in brief
- ❑ Provide complete policy including list of projects - through a weblink
- ❑ Composition of CSR Committee
- ❑ Disclose Average Net profit of last three years
- ❑ Disclose CSR threshold amount (2%)
- ❑ Project-wise details to be given in prescribed format as follows:
 - Name of the project
 - Sector
 - Implementation area of project (District / State, also if it is 'local area' or not)
 - Funds budgeted, unspent fund brought forward from previous year, amount actually spent during the year, cumulative spending, unspent amount carried forward
 - Give details of amount spent directly or through implementing agencies (Give names & other details of implementing agencies)
- ❑ If 2% not spent give reasons for the same.
- ❑ A Responsibility Statement by CSR Committee (more like a Certificate).
- ❑ Report to be signed by MD/Director / CEO

Recommendations by Committee Headed by Secretary, MOC

- ❑ Increase the amount available for overheads from present 5% to 10%
- ❑ Companies not reqd to have independent directors can have only 2 director committee. (no independent director needed)
- ❑ CSR to apply to foreign companies. Necessary changes to be made under S.384
- ❑ Schedule VII to be revised to cover subjects only.
- ❑ Ambiguities to be removed on calculation of net profit.
- ❑ CSR 'in kind' not being allowed due to valuation issues.
- ❑ S. 8 companies not to be exempted from CSR.
- ❑ 3 year requirement for continuing CSR to be removed.
- ❑ Differentiation to be made in companies spending Rs 5 crore or more on CSR and others, for monitoring of performances.

Trusteeship & Sustainability

- ❑ Why focus only on 2% why a corporate not be asked about how it spends its 100% of resources
- ❑ Under [Trusteeship](#) Gandhiji talked of statutory trusteeship.
- ❑ Also known as ESG Principles (Environment, Social, Governance). Internationally adopted by IFC as Sustainability Framework. ISO has come out with ISO 26000.
- ❑ National Voluntary Guidelines identify 9 principles which have become the basis of Business Responsibility Report (BRR) Framework.
- ❑ Companies closing their financial year after 31 Dec 2012, the Annual Report should include BRR Report. Effective 1 April 2016 it has been extended to top 500 companies.
- ❑ NVG guidelines talk of principles of Equity, Energy & Environment.

ESG Principles

- ❑ Environment, Social, Governance Principles
- ❑ Idea is that only an approach which helps Sustainability will help fulfill all these principles.
- ❑ National Voluntary Guidelines identify 9 principles which have become the basis of Business Responsibility Report (BRR) Framework.
- ❑ Companies closing their financial year after 31 Dec 2012, the Annual Report should include BRR Report.

Nine Principles for BRR Framework

- ❑ P1 – Conduct and govern themselves with Ethics, Transparency & Accountability
- ❑ P2 – Provide goods and services that are 'safe' and contribute to sustainability throughout their life cycle
- ❑ P3 – Businesses should promote wellbeing of all employees
- ❑ P4 – Respect the interests of and be responsive towards all stakeholders, especially disadvantaged, vulnerable
- ❑ P5 – Respect and promote Human Rights

Nine Principles for BRR Framework.....cont'd

- ❑ P6 – Respect, protect and make efforts to restore the environment
- ❑ P7 – Any influencing of public and regulatory policy should be done in a responsible manner
- ❑ P8 – Support inclusive growth and equitable development
- ❑ P9 – engage with and provide value to their customers and consumers in a responsible manner.

CSR Reporting included in BRR (as per SEBI requirement)

- ❑ Calculate CSR spending during the year as % of **PAT**. (Section B, Para 4)
- ❑ List activities (sectors ?) on which CSR spending undertaken. (Para 5)
- ❑ Answer Y/N (Under Section D, Para 2)
 - Is there a CSR Policy ?
 - Has it been **prepared in consultation with stakeholders** ?
 - Does the policy conform to any national / international standards ?
 - Approved by the Board ?
 - Signed by MD/ Director /CEO ?
 - Specified committee oversees implementation ?
 - Weblink provided ?
 - Policy formally **communicated to all stakeholders** ?
 - Will policy be implemented through inhouse structure ?
 - **Grievance Redressal Mechanism** in place relating to policy ?
 - **Independent audit/ evaluation** of implementation of policy ?
- ❑ If any answer in negative give reasons.

