



Corporate social responsibility: An inevitable trend in the emerging corporate world

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Abstract

India has the world's richest tradition of Corporate Social Responsibility. Though the term Corporate Social Responsibility is comparatively new, the concept itself dates back to over thousands of years. The concept of Corporate Social Responsibility is not new to India. From time immemorial the concept is followed in one or the other way through different names and dimensions. In the beginning people brought this concept under the religion and people of that religion followed it as a mark of respect. Several scholars have mentioned instances of CSR in their own way. No doubt CSR is an old concept. But it was not codified nor was a compulsion to the companies. But after passing of The Companies Act, 2013 the CSR has got a complete legal effect under Section 135 of the Act read with schedule VII. An age old concept has gone through different stages of evolution and got a new shape. In this emerging corporate era, the concept has become so inevitable in the today's corporate world. As the concept is codified recently, there is a need for refining the concept to certain extent removing all its loopholes in the future.

Keywords: corporate social responsibility, section 135 of the companies Act, 2013, evolution of CSR, definition of CSR, CSR in India

1. Introduction

Being a human, it's our responsibility and duty to take care of the society. It is the social responsibility of each of us to take care of the State. Even the Constitution of India tells us about our duty towards the State under the concept of Fundamental Duties and Directive Principles of State Policy. No doubt in the beginning all the responsibility was under the State. State was alone responsible for each and every thing as all the departments were run by them and it was only possible for them to take the responsibility of the people. But due to Liberalization, Privatization, Globalization, the system changed drastically and all the private enterprises started moving forward and competing with the State and finally they were successful in competing with the government and as a result the need was felt to shift the responsibility even to the private sector as they were in a position to take the responsibility in a proper manner. And it's quite evident to note that among the private sectors, corporate sector has boomed to a larger extent. So there was a need to shift the responsibility even to these sectors. Hence CSR came to the scene. Evolution of CSR is not a one day process. It has undergone a gradual process of evolution with several changes from the voluntary philanthropy level to the present codified law.

2. Meaning and definition of CSR

The name of CSR was coined in 1953 with the publication of Bowens Social Responsibility of Businessmen, which initially posed a question of what responsibilities to society business people are reasonably expected to assume ^[1].

There are other names that are interchangeably used to refer to

CSR, such as responsible business conduct, socially responsible business, social entrepreneurship, etc. Efforts have been made to define CSR by many well known scholars as well as organizations.

According to International Chamber of Commerce; CSR is the voluntary commitment by the businesses to manage their roles in a society in a responsible way.

According to Carroll and Buchholtz; CSR as the economic, legal, ethical and discretionary expectations that society has of organization at a given point in time ^[2]

3. History and evolution of CSR

CSR in India has evolved through different phases, like community engagement, socially responsible production and socially responsible employee relations. Its history and evolution can be divided into four major phases which run parallel to India's historical development and has resulted in different approaches towards CSR. However the phases are not static and the features of each phase may overlap other phases

3.1-Phase 1 (1850 TO 1910)

The first phase of CSR is known for its charity and philanthropic nature. CSR was influenced by family values, traditions, culture and religion, as also industrialization. The wealth of businessmen was spent on the welfare of society, by setting up temples and religious institutions. In times of drought and famine these businessmen opened up their granaries for the poor and hungry. With the start of the colonial era, this approach to CSR underwent a significant change. During this period social benefits were driven by

¹ Ramon mullerat, "International Corporate Social Responsibility", 1st edn, Wolters Kluwer, Neitherlands, 2010, P.245

² A.B.Carroll And A.K. Butcholtz, "Business And Society: Ethics And Stakeholdermanagement", 1st edn, 2003, P.312

political motives.

3.2 Phase 2 (1910 TO 1960)

The second phase was during the Independence movement. Mahatma Gandhi urged rich industrialists to share their wealth and benefit the poor and marginalized in society. His concept of trusteeship helped socio-economic growth. He influenced industrialists to set up trusts for colleges, and research and training institutions. These trusts were also involved in social reform, like rural development, education and empowerment of women.

3.3 Phase 3 (1960 TO 1980)

The third phase of CSR had its relation to the element of "mixed economy", emergence of PSUs and laws relating labour and environmental standards. During this period the private sector was forced to take a backseat. The public sector was seen as the prime mover of development. Because of the stringent legal rules and regulations surrounding the activities of the private sector, the period was described as an "era of command and control". However the public sector was effective only to a certain limited extent. This led to shift of expectation from the public to the private sector and their active involvement in the socio-economic development of the country became absolutely necessary.

3.4 Phase 4 (1980 Onwards)

In this last phase CSR became characterized as a sustainable business strategy. The wave of LPG, together with a comparatively relaxed licensing system, led to a boom in the country's economic growth. This further led to an increased momentum in industrial growth, making it possible for companies to contribute more towards social responsibility. What started as charity is now understood and accepted as responsibility^[3].

4. CSR in India

According to many scholars, the concept of CSR has its roots as far back as the teachings in Veda. They also identify CSR concepts in Arthashastra from the 4th century B.C. tracing the history of CSR in India is a difficult task. But efforts have been taken by many scholars to identify the history of CSR in India.

As stated earlier, India's industrialization process started after independence that too during the first two V year plans. Even though India was rich in natural resources, still it was made only a centre for supplying the raw materials to the Western Countries where we can expect no profit. But due to the planned administration of India after Independence it was really a boon to the Indian economy.

Initially the pace was slow and there was a lack of awareness in many things specially w.r.to pollution. Within a short span many industries grew up and as a result along with the industries even the pollution grew up. This situation made India awake to take care of pollution and they succeeded in it too. And mainly the responsibility to take care of the pollution was shifted to the same industries that were responsible for the

pollution as it was them who were taking the benefit of the society.

No doubt it's the responsibility of the public sector to take care of the society. But at the same time the private sector are also to be taken the same responsibility as they are taking certain benefits from the society. So it's their duty to plough back the surplus profits for the benefit of the society.

But all the companies may not contribute for the social responsibility and only those companies who are in the successful stage are the real contributors to the society. Some company may give a load full of pollution to the nature and at the same time may be a threat to a society but they may be running the business in loss. The company can think of social responsibility only when the company is running in a sound way. If the company is running under a loss then it's not at all possible for them to spend for any social purposes as it's the prime responsibility of the company to take care of the interests of the shareholders because of which the company would run in a sound way through the investment made by them.

Hence for the success of the company several things are taken into consideration. It is not the owner or director of the company can bring the company to a successful point. It is the efforts of employees, shareholders, and even the public in the locality where the company is situated and even the consumers are responsible for the success of a company. But when all these are responsible for the success of the company all must get the credit out of it. No doubt the shareholders will get the credit through the dividends according to their investment, the employees are paid handsomely for their work and even their families are given certain benefits according to the company's policies. But normally the person who has indirectly served for the development of the company like customers of the company, people who are living in the local areas inhaling the polluted air and drinking polluted water get nothing apart from diseases. Hence it was strongly felt that there was a need to the company to take some responsibilities of them by serving them according to the capacity of the company. Hence the need for social responsibility was badly felt. And there was a need to have an exclusive legislation for the concept of CSR. As a result there was an inclusion of section 135 under the new Companies Act, 2013 which spoke about CSR. No doubt before passing up of the new act however there were many legislations that dealt with CSR and even though it was not compulsory for any companies to spend their income on the society they would voluntarily spend it for their own benefits like to increase the good will, to enhance reputation of the company, etc.

5. CSR under section 135 of the companies act, 2013.

Legal provisions in a nutshell-

- a. every company registered under the Companies Act and having net worth Rs. 500 crores or more, turnover of Rs 1000 crores or more or a net profit of Rs 5 crores or more during any financial year; shall have to comply the provisions of Section 135 of the Act..
- b. Company to constitute a CSR Committee
- c. CSR Committee to formulate and recommend to Board a CSR Policy indicating CSR activities to be undertaken by the Company as specified in Schedule VII

³ http://www.janalakshmi.com/wp-content/uploads/evolution_of_csr_in_india.pdf, visited on 05- 09-2016

- d. CSR Committee to recommend amount of expenditure to be incurred on those CSR activities
- e. CSR Committee to monitor the CSR Policy
- f. Board to approve the CSR Policy and disclose contents in the website and in the Board's Report
- g. Board to ensure the CSR activities are undertaken by the company
- h. Board to ensure that company spends in every financial year, at least 2% of the average net profits of the company made during the three immediately preceding financial years, in pursuance of CSR policy^[4]

Section 135 is to be read with schedule VII of the same act which has list of activities to be conducted under the CSR namely:-

1. Eradicating extreme hunger and poverty
2. Promotion of education;
3. Promoting gender equality, empowering women;
4. Reducing child mortality and improving maternal health;
5. Combating HIV, AIDS, Malaria and other diseases;
6. Ensuring environmental sustainability;
7. Employment enhancing vocational skills
8. Social business projects ;
9. Contribution to the Prime Ministers National Relief Fund or any other funds set up by the Central or State Governments for socio economic development;
10. Such other matters as may be prescribed^[5].

6. CSR- as an inevitable trend in the emerging corporate world

The concept of CSR is gaining a momentum in the present society. As discussed earlier, the concept of CSR is not a new concept. It has been practiced from time immemorial but with different perspective and dimensions. No doubt the concept of social responsibility is present in each and every sector. No work can be done or completed without the essence of societal responsibility in it. Each and every step of an individual speaks of social responsibility. There are many laws enacted both in National as well as International sphere, which purely speaks of social responsibility enshrined in it. No doubt, all the laws enacted from time to time, in various fields speak about social welfare and there is no single law in the State which speaks against the society or do not work under the purview of social responsibility. If we take any enacted laws like Indian Penal Code (IPC) 1860, Indian Contract Act, 1872, etc. there are many provisions that deal with the protection and welfare of the society. In fact, under IPC, it is the State who has to take initiative, if something goes wrong against the society and give justice to the victims, with a view to mitigate the occurrence or repeat of such crimes, which in turn work for the development of the society.

The concept of CSR assumes more importance when the venture raises profits as aimed. The surplus profits would certainly give scope for the other priorities namely, the

initiation of measures from the point of view of its workforce and the surrounding general public. When the employees make a demand for the provision of recreational facilities, early school education facility for their children, provision for housing colony, the provision of essential commodities at a lower price, provision of transport facility for their children to pursue further education, etc. are well recognized social responsibilities which normally exists in cases of medium and large scale enterprises. Undoubtedly the Public Sector enterprises in India have made impressive initiations apart from well known capitalist families such as TATA, BIRLA, etc. Recently we also see the corporate Sector entering into the field of providing a high quality education involving primary, higher, professional courses of different innovations across the world. Strictly, this type of ventures one cannot classify it as a CSR. On the contrary, CSR is a concept which represents a dual object namely, the clear goals involved in the entrepreneurship and secondly on the basis of the profits made through the entrepreneurship and its compulsion in providing a society felt needs in general which may depend upon the priorities that are aimed.

However, the present background ideology notions of the corporate sector fundamentally stands on one premise namely, when a business undertaking on a large scale basis exploit the natural resources of a particular region parallally, they must also remedy the balance of eco system by initiating certain other remedial measures. This responsibility is based on the concept of sustainable development. The new legal regime namely, the Companies Act, 2013 under Section 135 makes it compulsory the discharge of this obligation by the corporate entities.

It is the corporate sector which started booming in the society in the mid 20 and 21st century. The concept of CSR is not practiced purely in the corporate sectors. In each and every sphere of development, the concept of social responsibility has a role to play. There is no activity in the absence of social responsibility in it. No work or activity is practiced in the society which is against the social development. The Indian Constitution, which is the fundamental law of our country, clearly explains about the responsibility of the stakeholders towards the society. Hence the concept of social responsibility has become a very important concept.

As already discussed, today the concept of social responsibility assumes different dimensions. For ex., in the real estates, if a builder want to build a house or apartment, it is compulsory for him to allot certain land for the purpose of Public Park or other recreational facilities. In cases of multi apartments, it is necessary for them to allot certain space to public use. In this way social development is the concern for each and every individual. It is with the active involvement of the public themselves; the State can strive for the development of the public at large. It is the companies who must be in forefront, work for the development of the societies. The companies have come to the opinion that without having an essence of social responsibility in it, it cannot run in an efficient manner. The concept of CSR has become an inevitable in the emerging world which has led to the development of the society at large.

⁴ S. Rajendran, "CSR Under The Companies Act, 2013- A Different perspective", Chartered Secretary, Vol XLVI, No. 3, March 2016

⁵ T.N. Pandey, "The Concept Of CSR Under The Companies Act, 2013- Whether Well Conceived?", Chartered Secretary, Vol XLIII, No. 9, September 2013, p. 1053

7. Merits of CSR

1. Increased profit
2. Enhanced brand image and reputation
3. Increased sales and customer loyalty
4. Increased productivity and quality
5. Increased ability to attract and retain employees
6. Potentially, reduced regulatory oversight
7. (vii)Reducing risk and increased risk management ^[6].

8. Criticisms

Though the newly enacted Companies Act, 2013, addressed major concerns of the corporate sector, it has still gained controversy in some of the provisions included in the new enactment. Concept of CSR is one of those provisions that suffered various criticisms. Many argue that, the concept is a welcoming one, but the way they have implemented is not welcomed by many corporates. The CSR concept in the act has not universally welcomed by the corporates.

1. The criticism lies on making this concept mandatory to the corporates to spend their part of profit to the public welfare. According to many, the responsibility of the people and society is the work of the government who are collecting heavy taxes in the name of development. Many argue that inspite of paying heavy taxes to the Government for the sake of society and people still they are overburdened by making them again to spend their profit for the society. The companies consider it as extra burden on them incurred by the Government in the form of section 135 of the Companies Act, 2013 as already they pay hefty taxes in one or the other way to the Government.
2. The CSR policy has prescribed certain limits for the companies who will come under the purview of csr policy. But the problem here is only few companies come under the purview of policy according to section 135(1) of the new companies Act. According to certain statistics, not even 1% out of the total companies in India come under the purview of this policy. Hence its necessary to enlarge the provisions so that maximum number of the companies will come under the purview of CSR Policy.
3. One of the biggest problem that arouse in the spending of CSR money. No doubt there is a provision stating that the amount prescribed in the policy should be spent in the local area where the company is set up. Naturally it is appreciable as these local people will be get affected in one or the other way because of these companies. Some may lose their house, some may lose their land, etc. for the purpose of establishing a company. Even some may be prone to certain irritation caused by the companies either by polluting the environment or anything alike. Because of all these reasons it is necessary to give preference to those local area people who have struggled a lot because of these companies. But at the same time it is to be noted that normally businesses are established in only certain areas where they are comfortable to carry their business. Sometimes the situation may arise where hundreds of companies are concentrated only in one single place and there are certain places where there is no shadow of the

corporate sector or anything alike. Hence it is very much essential to strike a balance between these two situations. If the balance is not properly maintained then the benefits of this policy will reach to only few where many will be suffered by not getting any benefits.

4. One more confusing situation in the concept of CSR is with regard to the 2% of profit. There is no clear demarcation to calculate the amount which they have to reserve for the purpose of CSR. Even there is no provision to state that whether 2% of profit relates to profit only from Indian operations or foreign operations as well.
5. Schedule VII of the Act has enlisted certain activities which are considered as CSR activities and the corporate should spend their profit for these many purposes. But the list is once again not appreciated by many scholars for many reasons. It is directed by the government that companies who are spending their money for the purpose of society in the name of CSR must get involved in the service provided by them. But due to the addition of the clause stating providing fund for the prime ministers fund, many a time may not include companies involvement into it. There are lot of chances where the companies may donate the required amount to the prime ministers fund and wash their hands as they are busy with their own corporate business, and they are not in a position to devote time for the societal development as the main aim of the company is to make profits.
6. The main criticism raised in the concept because of making the concept mandatory. Many scholars, businessmen have strongly criticized for making the concept of CSR mandatory. It is true that most of the corporate or any other people will contribute for the development of the society in one or the other way. After making the concept mandatory has raised to several issues. Many of the corporate try to evade the responsibility by showing false profit or by simply implementing corrupt practices. The main reason for this is, the human tendency is such that they are not liked by any to rule them or force them. The tendency is such that if they are let free, sure they will work for the development of the society by spending their profit for the purpose of society.
7. There is an argument with regard to the amount prescribed under section 135 of the Companies Act,2013 with regard to the companies which is to be included under the CSR Policy. According to some economists, the amount mentioned under the section 135 of the Act is too high. As a result, only few companies are included under the purview of CSR Policy.
8. There is a lot of difference in opinion with regard to the tax exemption which is not provided for the 2% of the profit amount which is spent on the society by the corporate sector. No doubt there are several criticisms made by big business magnets who claim for tax exemption for the amount spent by the companies under the concept of Corporate Social Responsibility. the main purpose of the CSR is to share the burden of the government in providing social services and not to again

⁶ Narendra Singh, "CSR In The Companies Act, 2013- A Boon For Scientific Research", Chartered Secretary, Vol. XLIII, No.10, October 2013, p. 1185

overburden the government by skipping of the taxes ^[7] If the tax is exempted for the expenses incurred by the company for the purpose of CSR, it will result in subsidizing of the expenses by the government by way of tax expenditure. it will once again lead to some kind of inconvenience to the government ^[8]. In this way in various instances, companies will get tax exemptions on one or the other way even though there is no any direct provisions for the tax exemption for the amount spent on CSR activities.

9. The very important drawback of the concept is, there is no proper penal provisions mentioned under the Act for those who do not comply with the CSR provisions. No doubt the Act has mentioned certain punishment for not complying with the provisions of CSR by the companies who are duty bound to spend their profit amount for social development. But the provisions mentioned under the Act suffer with several loopholes which is to be corrected in the near future.
10. Even there is no clarity with regard to the unspent amount by the companies. No doubt the Act has got clear provisions with regard to the amount that is to be spent by the companies out of their profit for the welfare of the society. But the amount which is not spent by the companies to the concept of CSR leads to several confusions. It is very difficult to work out with the unspent amount so as to where the unspent amount should be accumulated or alike is a difficult question to answer.
11. It is true that, there are no proper guidelines nor proper authorities who are entrusted to keep an eye on the activities undertaken by the company under the head of CSR. Hence, to make the concept of CSR meaningful, it is very important to form a committee of in-house officers of the respective departments, to examine the various aspects relating to functioning of the scheme which can examine the relevant issues and frame appropriate guidelines for the proper implementation of CSR Scheme.
12. There are several other hindrances like, lack of social awareness and conviction among key officials, lack of adequate trained managers to execute CSR plans, lack of interlinking between CSR and financial effects, Absence of impact analysis of CSR activities, etc. ^[9]
13. As the concept is itself a new one, the existing loopholes must be studied and suitable provisions should be made for the purpose of making the provisions very effective and fulfil the motive of the provisions of Section 135 of the Companies Act, 2013.
14. The message is loud and clear: societal well being is a pre-requisite for business prosperity. Companies should look upon business not merely as a source of income or profit, but as a way of life, as a medium for putting talents to good use, while at the same time affording an opportunity to be of service to the community. Profits will follow. It's

to be kept in mind by every one that profit is not just a set of figures but of values.

15. Companies which put social responsibility before profits shall be the ones who will survive the competitive pressure,. CSR needs to permeate all across the value chain. It has to be realized that the future of business depends upon its ability and willingness to respond to the changing genuine aspirations of the society ^[10].

9. Conclusion

CSR as a concept has been the focus of various deliberations and much research over the past few years; and has come to occupy an important place in the academic and business arena. Evolving all the time, it has morphed from a purely philanthropic to a systemic and, finally, strategic activity. After the enactment of the Companies Act, 2013, it is estimated that approximately 2,500 companies have come in the ambit of mandated CSR; the budget could touch approximately INR 15,000 crores. Because of the huge revenue generated by the companies, the concept of CSR has become an inevitable in the emerging corporate world. It is very likely that the new legislation would be a game-changer, infusing new investments, strategic efforts and accountability in the way CSR is being conceived and managed in India. It has opened new opportunities for all stakeholders to devise innovative ways to contribute to equitable social and economic development. Currently, CSR in India is headed in a positive direction as there already exist a multitude of enabling organizations and regulatory bodies such as the Department of Public Enterprises, Ministry of Corporate Affairs and Indian Institute of Corporate Affairs. These institutions have already set the wheels in motion and are playing an important role in making CSR a widespread practice and in ensuring success in reducing inequalities without risking business growth. There is no doubt that in a future concept of CSR will take a new shape with some new plans and techniques. But, in whatever shape and form it works, the ultimate aim is the societal development and development only.

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⁹ Ibid p.578

¹⁰ Supra note 1, p.13