



CORPORATE SOCIAL RESPONSIBILITY IN INDIA: A CRITICAL REVIEW

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The Corporate Social Responsibility popularly known by its acronym 'CSR' has been the mandatory engagement of the Corporation, Companies, Industries etc. in the globe in general and so in India in particular. These corporations adopt certain practices which may be contributing to the qualitative growth in the society, environment, education, health and so on. This actually, is mandatory to the companies whose Net Worth, Turn Over, Profit have been crosses certain financial statistics. Although the CSR practices were constitutionally came to be implemented very later post-independence of India, our Industrialist had been followed these practices in the form of philanthropic activities. Many industries are giving helping hands to the orphans, women, tribal people, health missions, education in rural India, protection of environment and the activities relevant to that, construction of school buildings, community halls etc. They sometimes provide educational facilities to the poor and promote their education. They provide aid to the hospitals who can give medical treatment to the patients with economically weaker sections. They also help tribal people in the agriculture activities and fund their needs in the same area. The Indian industrialists like J.R.D.Tata, G.D.Birla, Shri Ram, and Kasturbhai Lallbhai presented a plan of Economic Development for India known as 'Bombay Plan' in 1944-45 and followed a Socialist framework post-independence.¹ The frequently asked questions pertaining to this CSR activities are many more. But one of the significant is that the origin of the concept itself.

Origin of the Concept CSR

There have been no exact trace of the origin of CSR in the world. Since the second half of the 20th century a long debate on corporate social responsibility (CSR) has been taking place. It has been differently conceptualised by Bowen in 1953 like Social Responsibilities of the Businessman. Since then there has been a shift in terminology from the social responsibility of business to CSR.²

The concept of social responsibility of business-popularly termed 'Corporate Social Responsibility' (CSR) - is by no means a recent phenomenon, but many observers agree that the globalization has spurred its growth and prominence. The notion of CSR, which now dominates thinking about corporate behaviour among a section of academics and practitioners

alike, is prevalent in the US and lately, Europe has taken the lead in shaping global CSR debates.³

It is equally true that as the Industrial revolution took place in England in particular and in Europe in General, there lies the origin of CSR. The concept of corporate social responsibility (CSR) has a long and varied history. Well known scholar Archie Carroll from University of Georgia states that the business community had little concern

¹ Chandra Bipan, *Colonial India: British Vs Indian View of Development*, Archive.org, 1991, p.145.

² Elisabet Garriga & Domenec Mele, *Corporate Social Responsibility Theories: Mapping the Territory*, Journal of Business Ethics, Kluwer Academic Publishers, Netherlands, 2004, p.53.

³ Arora Bimal and Puranik Ravi, *A Review of Social Responsibility in India*, Journal Development, Society for International Development, 2004, Nairobi, 2004, pp.93-100.

about society but further trace its formal writings in the United States in particular and in the developed countries in general only during the second half of the 20th century.⁴

Therefore, Asian countries including India are very less in performing the CSR as compared to Europe.⁵ But the New Economic Policy introduced by the P.V. Narsimha Rao Govt. in India by 1991 that gave rise to the policy of Liberalisation, Privatisation and Globalisation (LPG).

After deregulation of the Indian economy in 1991, there was pressure to corporatize and sell off government-owned firms and the concern for efficiency, effectiveness, and profitability became central. Consistent with global thinking, firms placed a high level of importance on their owners or shareholders and the focus was on maximizing their wealth.⁶

Therefore, it gave fillip to the Multi-National Corporation to start their practices in India. The companies in India are more focussed on community based activities as consumer expectations towards business were rising day by day.

The Ministry of Corporate Affairs (MCA) is the constitutional body to look after the Companies Acts are implemented. The recent regulatory provisions of the Companies Act, 2013 in general and Corporate Social Responsibility in particular are sourced from the Act of 2013 and it has been amended from time to time. The provisions of the Corporate Social Responsibility are found in Schedule VII, Chapter IX titled 'Accounts of Companies', Section 135 of the Act.⁷

Applicability of CSR is Mandatory or Voluntary?

The CSR activities are lesser voluntary than Mandatory because even if it is mandatory, the Companies sometimes are not engaged into serious social activities. They are just for the sake of compulsion are undertaking these activities. Mr. Abhijeet Upadhye, Managing Director, HAARSLEV PT India Pvt. Ltd, a Denmark MNC said that CSR must be looked as responsibility by choice and should not be executed as a burden. He said that his Company has been a turnover of \$1400 million and spends lot of amount on CSR activities which are really helping companies for their good self among the consumers.⁸ There are very few companies which are thinking to grow the reputation of their companies by getting the good wishes of the stakeholder that may increase their trustworthiness in the global market.

As per the Companies Act, 2013 the applicability of the CSR is as follows:⁹

- 1) A Company having Net Worth of Rs. 500 Crore or more OR
- 2) Turnover of Rs.1000 Crore or more, OR
- 3) Net Profit of Rs.5 Crore or more

It should be within any Financial Year and it is also mandatory to any foreign company having its branch or office in India and falls under the criteria specified above. However, if a company ceases to meet the above criteria for 3 consecutive financial years then it is not required to comply with CSR Provisions till such time it meets the specified criteria.¹⁰

⁴ Archie B. Carroll, *Corporate Social Responsibility Evolution of a Definitional Construct*, BUSINESS & SOCIETY, Vol. 38 No. 3, Sage Publications, Inc., September 1999, pp. 268-295.

⁵ Mishra Supriti and Suar Damodar, *Does Corporate Social Responsibility Influence Firm Performance of Indian Companies?* In the journal of Business Ethics, Springer, 2010, pp.571-601.

⁶ Jorge A. Arevalo and Deepa Aravind, *Corporate social responsibility practices in India: approach, drivers, and barriers*, VOL. 11 NO. 4, Emerald Group Publishing Limited, ISSN 1472-0701, 2011, p. 410, DOI 10.1108/14720701111159244.

⁷ Mishra Supriti and Suar Damodar, *Does Corporate Social Responsibility Influence Firm Performance of Indian Companies?* In the journal of Business Ethics, Springer, 2010, pp.571-601.

⁸ An Interview of Mr. Abhijeet Upadhye, M.D. of Haarslev PT India Pvt.Ltd., a Denmark MNC, dated 06/09/2019.

⁹ Web site of Ministry of Corporate Affairs, in link Acts & Rules, Companies Act, 2013.

¹⁰ <https://taxguru.in/company-law/corporate-social-responsibility-csr-companies-act-2013.html>

Constitution of CSR Committee

- 1) The Board consisting of three or more directors, out of which at least one director shall be an independent director.
- 2) The Board's report under sub-section (3) of section 134 shall disclose the composition of the Corporate Social Responsibility Committee.¹¹
- 3) The Corporate Social Responsibility Committee shall,—
 - (a) Formulate and recommend to the Board, a Corporate Social Responsibility Policy which shall indicate the activities to be undertaken by the company as specified in Schedule VII;
 - (b) Recommend the amount of expenditure to be incurred on the activities referred to in clause (a); and
 - (c) Monitor the Corporate Social Responsibility Policy of the company from time to time.
- 4) The Board of every company referred to in sub-section (1) shall,—
 - (a) After taking into account the recommendations made by the Corporate Social Responsibility Committee, approve the Corporate Social Responsibility Policy for the company and disclose contents of such Policy in its report and also place it on the company's website, if any, in such manner as may be prescribed; and
 - (b) Ensure that the activities as are included in Corporate Social Responsibility Policy of the company are undertaken by the company.
- (5) The Board of every company referred to in sub-section (1), shall ensure that the company spends, in every financial year, at least two per cent. of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its Corporate Social Responsibility Policy:

Provided that the company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for Corporate Social Responsibility activities:

Provided further that if the company fails to spend such amount, the Board shall, in its report made under clause (o) of sub-section (3) of section 134, specify the reasons for not spending the amount.

What is the Liability of the Company?

The Company falls under the criteria specified above must spend 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 its CSR Policy. The CSR projects/programs/activities undertaken in India only shall amount to CSR Expenditure. They have an options to choose the area of CSR activities preferably local areas and it is possible they may not be able to spend whole budget. In such a condition she must specify the reasons for it.¹²

If a Company is not able spend the prescribed amount under CSR for preceding three years, it will have to open a separate account in the Scheduled Bank titled Unspent Corporate Social Responsibility Account. Within the period of thirty days post the financial year the funds allocated but unspent must be transferred to this account. If a company contravenes the provisions of sub-section (5) or sub-section (6), the company shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to twenty-five lakh rupees and the officer in charge of the CSR who is in default shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both.¹³

¹¹ <http://www.mca.gov.in/MinistryV2/companiesact2013.html>

¹² Singla Ankit, Web article on www.Taxguru.in, *Company Law-Corporate Social Responsibility*, 24th September, 2018.

¹³ Gazette of India, *Amendments to Companies Act, 2013*, Section 135 of CSR, July 31, 2019 ,P.7

Scope of CSR Activities

1. Eradicating poverty, promoting health care (preventive and sanitation- safe drinking water) and contribution to the Swachh Bharat Kosh set-up by Union Ministry.
2. Promoting education- Formal, Informal, and Vocational
3. Promoting gender equality, setting up old age homes, day care centres and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups.
4. Ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources and maintaining quality of soil, air and water including contribution to the Clean Ganga Fund set-up by the Central Government for rejuvenation of river Ganga.
Mr. Abhijeet Upadhye said that his Company do engage into Pollution Control, Green House Effect, save energy measures and Environment protection activities.¹⁴
Protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art; setting up public libraries; promotion and development of traditional art and handicrafts;
5. Measures for the benefit of armed forces veterans, war widows and their dependents;
6. Training to promote rural sports, nationally recognised sports, Paralympic sports and Olympic sports
7. Contribution to the Prime Minister's national relief fund or any other fund set up by the central govt. for socio-economic development and relief and welfare of the schedule caste, tribes, other backward classes, minorities and women;
8. Contributions or funds provided to technology incubators located within academic institutions which are approved by the central govt.
9. Rural development projects and Slum area development.¹⁵

The Critique of the CSR

Friedman criticised the CSR policies in New York Times in 1970 in which he argued that the responsibility of managers is to maximize the return to shareholders and that any actions that further some social good, beyond the interest of the stockholders, can be viewed as deriving from an agency problem. That is, managers who use corporate resources to further some social good are doing so only to advance a personal agenda such as promoting their self-image.¹⁶

So far as India is concerned, CSR in India even today has not been clear understanding by the companies which are making huge profits and accordingly try to spend their portion under the social responsibility which they define their own limited ways and contexts.

The end result being that all activities undertaken in the name of CSR are merely philanthropy, or an extension of philanthropy. Creating trusts and foundations seem to be a favourite route of CSR practice by Indian companies, but largely such trusts and foundations work at an arm's length from the company preventing the mainstreaming of CSR into the core business processes and limiting CSR to community development only.¹⁷

When we take a critical review, certain statistics must be undergone as below:

Table 1: CSR Development Sector wise¹⁸

Sr. No.	Development Sector	Amount Spent FY 2014-15 In Crores	Amount Spent FY 2015-16 In Crores	Amount Spent FY 2016-17 In Crores	Amount Spent FY 2017-18 In Crores
1.	Education, Diff. Abled, Livelihood	3188.09	4942.55	5511.29	3486.76
2.	Gender Equality, Women Empowerment, Old Age Homes, Reducing Inequalities	189.92	342.46	463.49	274.79
3.	Heritage, Arts & Culture	117.37	119.08	304.42	212.42
4.	Rural Development	1059.34	1379.08	1548.94	1066.51
5.	Slum Area Development	101.14	14.30	51.46	4.70

¹⁴ An Interview of Mr. Abhijeet Upadhye, M.D. of Haarslev PT India Pvt.Ltd., a Denmark MNC, dated 06/09/2019.

¹⁵ Jain Arushi, Web Article on www.taxguru.in, 31st August, 2019.

¹⁶ Abigail McWilliams, Donald S. Siegel and Patrick M. Wright, *Corporate Social Responsibility: International Perspectives*, Rensselaer Polytechnic Institute, Number 0604, New York, March 2006,p.5.

¹⁷ Arora Bimal and Puranik Ravi, op. cit., p.98.

¹⁸ <https://www.csr.gov.in/developmentlist.php>

The above table shows us that most of the expenditure has been made on education..... and most neglected sector that is slums area followed by Heritage, Arts and Culture. The year 2017-18 only 4.7 crores have been spent on Slum Area Development.

Table 2: Companies, Eligible, Reported & unreported/CSR Budget Prescribed, Actual Spent & Unspent by 31st January 2016 on the National CSR Portal.¹⁹

Companies under CSR			CSR Budget in Crores		
Eligible	Reported	Unreported	Prescribed	Actual Spent	Unspent
10475	7334	3141	14675	12929	1746

The above table shows us that 3141 companies eligible for CSR activities are hiding themselves from it. The amount of unspent budget has been Rs.1746 Crores. It shows the apathy of the companies towards CSR.

Table 3: Mode of Implementation of CSR²⁰

Sr. No.	Mode of Implementation of CSR	Amount Spent
1.	Company's Own Foundation	4%
2.	Directly	53%
3.	Partnership with other Organisations	4%
4.	Society/Trust/ Section 8 Companies	39%

Table 4: Reasons for underspent CSR Budget²¹

Sr.No.	Reason for underspent CSR amount	Percentage for the Reason
1.	Budget Advanced to IA but not spent	0.03
2.	First Year of CSR	5.81
3.	Multi Year Projects	1.58
4.	No reason required	22.61
5.	Not Applicable	20.88
6.	No reason given	7.99
7.	Others	17.79
8.	Suitable IA not found	1.01
9.	Suitable Projects not found	10.57
10.	CSR details not found	11.74

Table 5: District wise CSR Budget spent²²

Sr.No	Name of the District where CSR Budget spent	Year wise Percentage of CSR Budget spent in lakhs				
		2014-15	2015-16	2016-17	2017-18	Total
1.	Mumbai City	3456	23216	28149	0	54821
2.	Mumbai Suburban District	33	2	0	0	35
3.	Thane	1869	3858	2566	2515	10808
4.	Palghar	164	727	2042	174	3107
5.	Raigarh	118	13227	1159	306	14810
6.	Pune	17629	19640	19302	18037	74608
7.	Hingoli	0	0	0	0	0
8.	Washim	2	0	0	0	2
9.	Gadhchiroli	23	127	195	0	345

¹⁹ <http://www.mca.gov.in/MinistryV2/csrdatasummary.html>

²⁰ <http://www.mca.gov.in/MinistryV2/csrdatasummary.html> Data & Reports in Snapshot

²¹ https://www.csr.gov.in/state.php?csr_spent_range=&year=FY%20201718&compCat=&district=&mact=&state=Maharashtra

²² Ibid.

Table 6: Reasons for unspent CSR budget²³

Sr. No.	Reasons for "ZERO" Spent CSR Budget
1.	Financial restructuring
2.	Incurred loss
3.	CSR data not found
4.	Non finalization of CSR areas
5.	Company is not required to constitute CSR committee
6.	Board approval for projects delayed
7.	Technical and Procedural difficulty
8.	Many projects were in conceptualization stage
9.	CSR Policy formulation is under process
10.	Location of projects could not be finalized
11.	Company were primarily focused on creating suitable organizational capacity to identify and undertake appropriate CSR programs/projects.
12.	Necessary documents could not be executed to release the amount on CSR activities.
13.	Not formed CSR Committee
14.	Very less resources to execute CSR activities
15.	Projects were approved by CSR committee at the end of financial year
16.	Lack of Clarity on CSR issues
17.	Status of the company doesn't gel with the concept of CSR
18.	Negative impact in the sugar sector
19.	Companies Cash Flow doesn't permit CSR
20.	Spending will commence in due course
21.	The CSR Committee deferred expenditure on CSR

The modes of implementation of the CSR states that Companies falling in the CSR component spends 53% of the amount directly and 39% through the Trusts/societies/ and Section 8 Companies. It means that the choice of expenditure lies in the hands of company officials wherever they want. But when the amount is handed over to the Trusts/NGOs/Societies or to the companies established under Section 8, are not able to utilise the wholesome amount as their human resources as well as other technical resources needs the portion of prescribed budget to be actually spent on CSR activities.

So far prescribed budget under CSR is underspent for which certain reasons have been cited by the companies like advance given to the Implementing Agency (IA) but not spent, no suitable IA found, no suitable project found, first year of project, multi-year project etc. in case of unspent CSR budget, the reasons are very different like company's cash flow doesn't permit, under process, CSR Committee not formed. This all show that the companies are not ready spend their share of profit under CSR willingly even if it has made it mandatory by the Government. One can understand that if it would not have been enacted, then what would have been the approach of these corporations towards the CSR.

When we make an analysis on the Maharashtra district wise CSR spent from financial year 2014-15 till 2017-18, we find the dipartites in the CSR spent. When we look into nine districts of Maharashtra in the Table No. 5 we analyse that Pune has been the consistently under CSR spent and the districts like Hingoli and Washim, no company has spent a penny under CSR there. Even the Naxal affected district of Gadchiroli has been had the CSR spent of Rs.345 lakhs. In the two districts of Mumbai City (MC) and Mumbai Suburban District (MSD) we see that during the four years of CSR spent, only Rs. 35 lakhs have been spent in Mumbai Suburban District as against Rs.54821 lakhs in Mumbai City.

Conclusion: -

The concept of CSR has been prevalent that the goodwill of the society must be behind the Companies to further prosper and flourish. The Ministry of Corporate Affairs must take action against the companies which are not spending their CSR budget properly in the area where Government has not been spending anything, nonetheless, they should bridge the gap between Government and the society. The companies must keep watch on the spending of CSR by the Trusts/NGOs/Societies etc. time to time. Even they must blacklist these trusts if they don't utilise the funding needed to the affected areas.

The Companies should establish the CSR Committee and give them powers to implement CSR. This Committee must meet timely and take a toll on how the Implementing Agency is working on CSR spent. The CSR budget

²³ [http://www.mca.gov.in/MinistryV2/csrdatasummary.html/PPT of Data and Reports.](http://www.mca.gov.in/MinistryV2/csrdatasummary.html/PPT%20of%20Data%20and%20Reports)

should be spent in the areas where no development has been taken place like Hingoli and Washim districts of Maharashtra so to abridge the disparities in the development of the country. Many times, the companies taking more care of the stockholders than that of the stakeholders. Giving reasons for underspent or unspent budget is fine for the fulfilling the responsibility, but the companies must willingly follow the CSR activities and not to be forced upon them. This approach will definitely look into the well wish of the stakeholders as well as stockholders.

