

3 MANDATING, MONITORING & MENTORING CSR

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ABSTRACT

CSR cannot be confused with philanthropy and Governance. Moral Codes for Corporate on CSR is developed by Ministry of Corporate Affairs, published in India in July 2011 has nine principles. The big question is whether the CSR is voluntary or to be made mandatory by law. To make CSR more effective, the law has to be enforced on those organizations, which do not voluntarily take up CSR activities. The business, ethical and social dilemmas are to be addressed from time to time.

INTRODUCTION

CSR is not a new topic. It is already imbibed and embedded in any membrane be it a natural or artificial person. As human beings, are we not responsible for the environment surrounding us? Does environment exist for us or we exist for the environment? The cities that are populated with vehicles, clouded and choked with pollution necessitated and mandated vehicle owners to obtain a Pollution Free Certificate (PFC) for the vehicle at regular intervals sustained the efforts in controlling pollution to some extent. The car manufacturers have been sustaining their business in multiplying the manufacture of number of cars, in terms of models, etc have also been entrusted with the responsibility of manufacturing fuel efficient and pollution less cars. It is often said that duty and responsibility coexists. Where car owner has a duty to get PFC, the car manufacturer has the responsibility of producing Pollution Free Car. It infers that stakeholders do have a role in making the company to run business responsibly and being responsible for their actions.

CSR is...!

Corporate Social Responsibility is an integration of Business, Ethics and Society. In the process of integration, the main challenges that may be faced in mandating it are:

CSR is a mind-set and not made to sit!

CSR is a value creation and not a recreational value!

CSR is a cause and not a cost!

CSR is a philosophy of voluntary and not compulsory!

CSR is a process of negotiation and not by way of Regulation!

CSR can make a difference and not deference!

CSR may not bring efficiency but effectiveness!

CSR is all about being Responsible by being Responsive!

A CORPORATE IS ARTIFICIAL NOT NATURAL

Unlike natural person, a corporate is an artificial person born out of law, death by law, run and regulated by law. It is not a citizen nor does it have any vote except its members who are natural person who can vote, speak and exercise powers at its shareholder's meeting. A corporate therefore occupies a unique identity and it is only the law that can lift its veil where only circumstances permit and necessitate in case of fraud, or it is a mere sham. However, the law imposes upon a corporate and its Board a large number of

obligations to report on its various activities and question pros and cons up whether CSR can be mandated or made to be reported upon.

A CORPORATE IS VALUE MAXIMIZATION AND NOT MERE PROFIT AND WEALTH MAXIMIZATION

The ultimate objective for which a corporate could exist and subsist from the view point of various stakeholders is that it should generate profit for wealth maximization by stakeholders. However, an important point that is often unseen is that whether profit and wealth could alone sustain, if businesses are not socially responsible. Since business is a segment of the society, it can run neither on oblivion nor in isolation and there is a moral duty for the corporate to do 'something' for the society at large.

CSR CONFUSED WITH PHILANTHROPY AND GOVERNANCE!

What has often led to the topic being made hot is that, the term "CSR" has been confused or colluded with 'sacrifices', 'corporate governance' 'philanthropy' etc. CSR in nutshell is all about making 'businesses behaving responsibly'. Question before us is how it shall be ensured? Can a shareholder fund/capital/profit be earmarked for society development, when the purpose of contribution to a corporate is for wealth maximization? So, in a way it is conflicting for the contributor as well acceptor of capital, whether it can be spent for making business responsible.

Moral Codes for Corporate on CSR:

While debate continues whether CSR could be mandated or not, the Government Regulator for companies in India, the Ministry of Corporate Affairs, published in July 2011, a document "National Voluntary Guidelines on Social, Environmental & Economic Responsibilities of Business" which prescribes (9) Principles. The

Guidelines emphasize that businesses have to endeavor to become responsible actors in society, so that their every action leads to sustainable growth and economic development. Accordingly, the Guidelines use the terms 'Responsible Business' instead of Corporate Social Responsibility (CSR) as the term 'Responsible Business' encompasses the limited scope and understanding of the term CSR.

Principle 1: Businesses should conduct and govern themselves with Ethics, Transparency and Accountability.

Principle 2: Businesses should provide goods and services that are safe and contribute to sustainability throughout their life cycle.

Principle 3: Businesses should promote the wellbeing of all employees.

Principle 4: Businesses should respect the interests of, and be responsive towards all stakeholders, especially those who are disadvantaged, vulnerable and marginalised.

Principle 5: Businesses should respect and promote human rights.

Principle 6: Business should respect, protect, and make efforts to restore the environment.

Principle 7: Businesses, when engaged in influencing public and regulatory policy, should do so in a responsible manner.

Principle 8: Businesses should support inclusive growth and equitable development.

Principle 9: Businesses should engage with and provide value to their customers and consumers in a responsible manner.

LAW FOR CSR

From volunteering the Guidelines, a law has been proposed for certain companies in India on corporate social responsibility. The Companies Bill, 2011 which was tabled in the Parliament (Lok Sabha) on 14th December, 2011 provides mandating CSR. According to the provisions contained in Clause 135 of the said Bill, 2011,

- Every company having net worth of rupees five hundred crore or turnover of rupees one thousand crore or more or a net profit of rupees five crores or more during any financial year shall constitute a CSR Committee consisting of three or more directors, out of which at least one director shall be an independent director.
- Board's Report to disclose the composition of CSR Committee.
- CSR committee to formulate and recommend to the Board CSR Policy which shall indicate the activities undertaken by the company as specified in the Schedule to the Bill, recommend the amount of expenditure to be incurred on the activities and monitor CSR of the company from time to time.
- Board to approve CSR policy and place it on company's website.
- Board to endeavor to spend at least 2% of its average net profits during the three immediately preceding financial years in pursuance of CSR policy.
- Board also to specify reasons for not spending the amount.
- Promoting gender equality and empowering women.
- Reducing child mortality and improving maternal health.
- Combating human immuno deficiency virus, acquired immune deficiency syndrome, malaria and other diseases.
- Ensuring environmental sustainability.
- Employment enhancing vocational skills.
- Social business projects.
- Contribution to the prime minister's national relief fund or any other fund set up by the Central Government or the State Governments for socio economic development and relief and funds for the welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women; and
- Such other matters as may be prescribed.

BUSINESS, ETHICAL & SOCIAL DILEMMAS

The list of CSR activities as enshrined by way of law throws following dilemmas,

- Whether rich have to spend for the poor!
- Whether a corporate exists for making profit or securing the society!
- How it can explain to the society that it has served it? – Comply or Reply Basis or Apply or Explain Basis!
- Whether any law can mandate the corporate to spend its profit generated out of capital invested for the purposes for which business is set-up!
- Why CSR mostly?

OBJECTIVES OF CSR POLICY

The CSR policies should lead to the following:

- Eradicating extreme hunger and poverty.
- Promotion of education.

CONCLUSION

The findings to the answers may be interesting or intriguing. Yet, the Government in its wisdom has gone a step further that rather making CSR voluntary (which ought to be by way of self-regulation and conduct) sought it that CSR is not just being corporate socially responsible, but behaving responsible to the society!

Reference:

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- 6.. “National Voluntary Guidelines on Social, Environmental & Economic Responsibilities of Business” – The Indian Institute of Corporate Affairs, Ministry of Corporate Affairs, Govt. of India – July, 2011.

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