

Corporate Social Responsibility [CSR]

[Section - 135] :- (A)

Definitions :-

→ CSR means the activities undertaken by a company in pursuance (accordance) of its statutory (compulsory) obligation laid down in section 135 of the Act in accordance with the provisions contained rules, but shall not include the following, namely :-

(i) Activities undertaken in pursuance of normal course of business of the company.

- Any company engaged in research and development activity of new vaccine, drugs and medical devices in their normal course of business may undertake research and development activity related to COVID-19 for financial years 2020-21, 2021-22, 2022-23 subject to the conditions that;

a) Such research and development activities shall be carried out in collaboration with any of the Institutes

b) Details of such activity shall be disclosed separately in the Annual

Report on CSR included in the Board's Report

- (ii) Any activity undertaken by the company outside India except for training of Indian sports personnel
- (iii) contribution of any amount directly or indirectly to any political party
- (iv) Activities benefitting employees of the company
- (v) Activities supported by the companies on sponsorship basis for deriving marketing benefits for its products or services.
- (vi) Activities carried out for fulfillment of any other statutory obligations under any other law in force in India.

[B] CSR Implementation :-

→ The board shall ensure that the CSR activities are undertaken by the company itself or through:

① connected charitable entity :-

- A company established under section 8 Act or a registered public trust or

a registered society.

- and approved under 80G of the Income Tax Act, 1961 established by the company, either singly or along with any other company.

② Any charitable entity with 3 years of experience :-

- A company established under sections of the Act, or a registered public trust

- and approval under 80G of the Income Tax Act, 1961 and having an established track record of at least 3 years in undertaking similar activities. + registered under CSR

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③ Entity established by Government

④ Statutory entity :-

- Any statutory body established under an Act of parliament or a state legislature to undertake activities.

[C] Criteria that Mandate (compulsory)

Constitution of CSR committee :-

① a) Net worth of ₹ 5000 or more

(1) b) Turnover of ₹ 1000 cr or more

(1) c) Net Profit ₹ 5 cr or more

(2) every company including its holding or subsidiary, and a foreign company having its branch office or project office in India, which fulfills the criteria specified in section 135 of the Act shall comply with the provisions of section 135 of the Act and CSR Rules

(3) A company having any amount/balance in its unspent corporate social responsibility account shall constitute a CSR committee and comply with the provisions.

(4) The net worth, turnover or net profit of a foreign company of the Act shall be computed in accordance with balance sheet and profit and loss account of such company prepared in accordance with the provisions of section 381 and section 198 of the act.

(5) where the amount to be spent by a company does not exceed ₹ 50 lakh, the requirement for constitution of the corporate social responsibility committee shall not be applicable and the functions

of such committee provided under this section shall, in such cases, be discharged by the board the of directors of such company.

(D) Amount and Form of CSR expenditure:

- (1) The board of ^{every} company referred to in sub-section (1) i.e. where CSR committee required to be constituted, shall ensure that the company spends, in every financial year, at least 2% of the average net profits of the company made during the 3 immediately preceding financial years.
- (2) where the company has not completed the period of 3 financial years since its incorporation, the company shall spend, in every financial year, at least 2% of average Net profits of the company made during such immediately preceding financial years, in pursuance of its corporate social responsibility Policy.
- (3) The board shall ensure that the administrative overheads shall not exceed 5% of total CSR expenditure of the company for the financial year.

(4) company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for CSR activities.

(5) If the company spends an amount in excess of the requirements provided under this subsection such company may set off such excess amount against the requirement to spend under this subsection for up to immediate succeeding 3 financial years subject to the conditions shall

(a) The excess amount available for set off shall not include the surplus arising out of the CSR activities, if any

(b) The board resolution shall pass to that effect

(6) Surplus arising out of CSR activities

- Any surplus arising out of the CSR activities shall:

X NOT Form Part of the business Profit of a company

AND

✓ Be ploughed back into the same project or

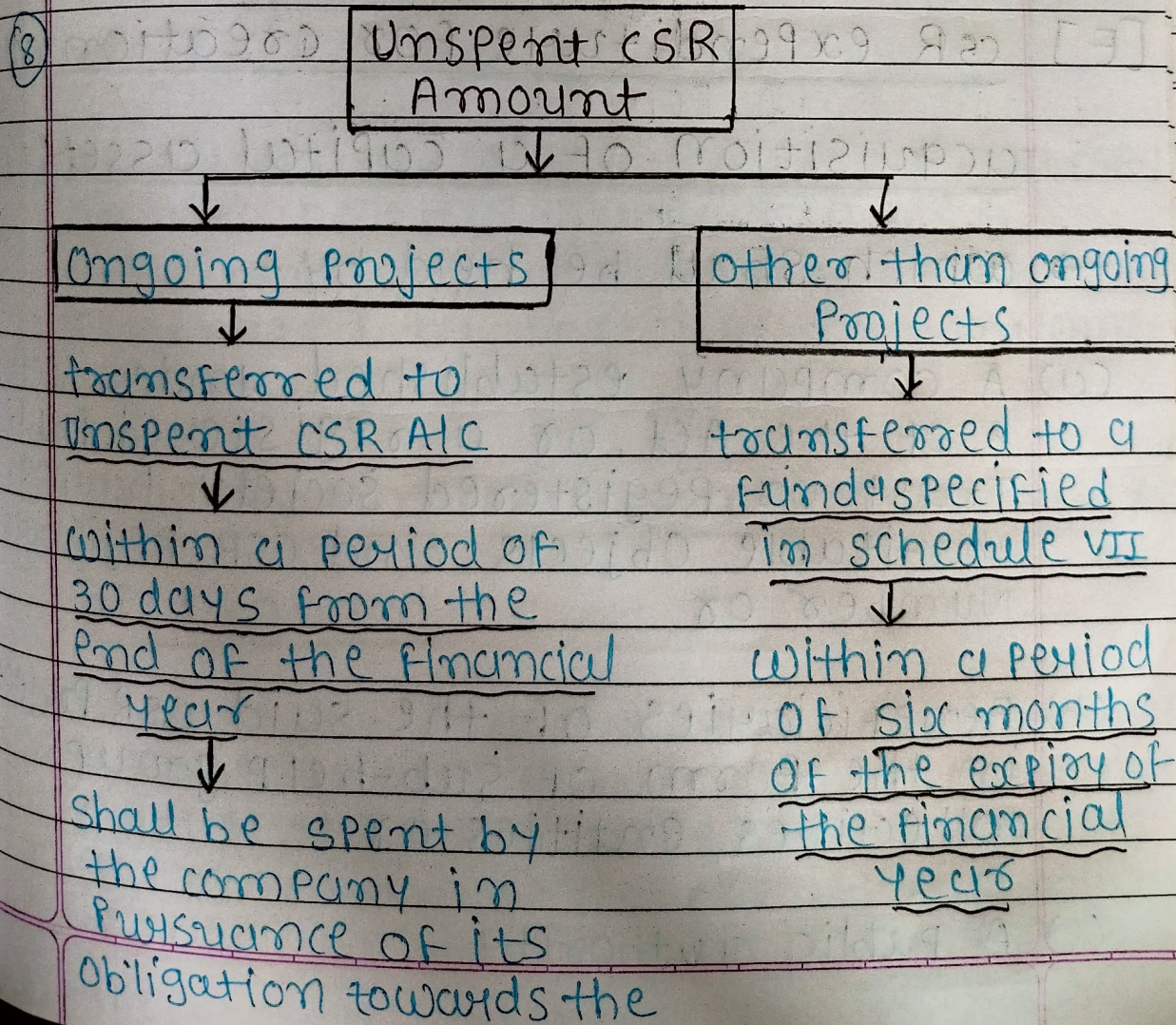
✓ Be transferred to unspent CSR A/c

and spent in Pursuance of CSR Policy and annual action plan of the company or

✓ Transfer such surplus amount to a fund specified in Schedule VII within a period of 6 months of the expiry of the financial year.

④ If the company fails to spend minimum prescribed CSR amount, the Board shall

- specify the reasons for not spending the amount in board report prepared



CSR Policy within a
Period of 3 financial
years from the date
of such transfer

↓
IF fails
↓

the company shall
transfer the sum to a
Fund specified in schedule
VII, within a period of 30
days from the date of
completion of the 3
financial years.

[E] CSR expenditure for creation or
acquisition of a capital asset:-

→ which shall be held by -

- (a) A company established under section 8 of the Act, or a registered public Trust or Registered society, having charitable objects and CSR Registration Number or
- (b) Beneficiaries of the said CSR project in the form of sub-help groups, collectives, entities or
- (c) A public authority

Registration of undertake CSR activity:

- every entity covered, who intends to undertake any CSR activity shall register itself with the central government by filing the Form CSR-1 electronically with the Registrar
- ② Form CSR-1 shall be signed and submitted electronically by the entity and shall be verified digitally by a chartered Accountant in practice or a company secretary in practice or a cost Accountant in practice.
- ③ on a submission of the Form CSR-1 on the portal, a unique CSR Registration number shall be generated by the system automatically.

[G] International organisations may be engaged :-

- A company may engage international organisations for designing, monitoring and evaluation of the CSR projects or programmes as per its CSR policy as well as for capital building of their own personnel for CSR.

[H] Constitution of CSR Committee

category	subcategory	constitution
company covered under section 135(1)	not required to appoint an independent director under section 149(4)	two or more directors, without independent director
	private co. having only two directors	two such directors
	a foreign company [ch-11]	least two persons of which one person shall be as specified under clause (d) of subsection (1) of section 380 of the Act and another person shall be nominated by the foreign company
	Not covered in any of sub-categories defined above	3 or more directors out of which at least one shall be an independent director

(I) Duties of the board in Relation to CSR:-

→ The board of every company, when CSR committee required to be constituted, shall,

- ① After taking into account the recommendations made by the corporate social Responsibility committee, approve the corporate social Responsibility policy for the company and
- ② disclose contents of such policy in its Report and
- ③ Also place CSR policy along with composition of the CSR committee and project approved by board on the company's website and
- ④ ensure that the activities as are included in corporate social Responsibility policy of the company are undertaken by the company.

(J) Duties of CSR committee:-

→ The corporate social Responsibility committee shall:

① Formulate and recommend the board a corporate social Responsibility Policy

② Recommend the amount of expenditure to be incurred on the activities

③ Monitor the corporate social Responsibility

④ The CSR committee shall formulate and recommend to the board, an annual action plan in pursuance of its CSR policy, which shall include the following, namely:

(a) The list of CSR projects or programmes

(b) Manner of execution

(c) The modalities of utilisation of funds

(d) Monitoring and Reporting Mechanism

(e) impact assessment

[K] ongoing Project :-

① Meaning :-

- Ongoing Project means -

(a) A multi year project undertaken by company in fulfillment of its CSR

obligation having timelines not exceeding three years excluding the financial year in which it was commenced

(and)

(b) such project that was initially not approved as a multi-year project but whose duration has been extended beyond one year by the board based on reasonable justification.

(2) Unspent CSR A/c :-

a) It is a special account generally created in case of ongoing project.

b) Amount is credited to unspent CSR A/c generally in following case:

- Ongoing Project
- Unspent CSR amount in a financial year
- Surplus, if any, from CSR activity

c) Unspent corporate social responsibility Account (Unspent CSR A/c) shall be operated with scheduled bank.

d) Any sum transferred to unspent CSR Account, shall be spent by the company in pursuance of its obligation towards the corporate social

Responsibility policy within a period of 3 financial years from the date of such transfer

(e) In case of failure in spending the amount transferred in unspent CSR Account in pursuance of its obligation towards the CSR policy within a period of 3 financial years from the date of such transfer, the company shall transfer the same to a fund specified in schedule VII within a period of 30 days from the date of completion of the 3 financial year (f) CSR committee to be in office unless unspent CSR A/c is not fully utilised.

③ Monitoring:-

→ In case of ongoing Project, the board of a company shall monitor the implementation of the project with reference to the approved timelines and year wise allocation and shall be competent to make modifications, if any, for smooth implementation of the project within the overall permissible time period.

[L] Funds specified in schedule VII:-

[A] Meaning :-

- 1) Contribution to the Prime Minister's National Relief Fund.
- 2) Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund [PM CARES Fund].
- 3) Any other fund set up by the central government for socio-economic development and relief of castes, Tribes, other backward classes, Minorities and women.

[B] Amount credited :-

- 1) Surplus arising out of CSR activity.
- 2) Unspent CSR Amount in case of no ongoing project.
- 3) Balance of Unspent CSR A/c remaining unutilised after 3 years.

[C] Impact Assessment :-

1) By which company?

- Every company having average CSR obligation of ₹10 crore or more in 3 immediately preceding financial

years, shall undertake impact assessment.

(2) OF what?

- OF their CSR projects having outlays [outflows] of one crore Rupees or more.

(3) By whom?

- an Independent agency

(4) what?

- ^{Projects} which have been completed not less than one year before undertaking the impact study.

(5) Reporting :-

- Reports shall be placed before the Board
- Reports shall be annexed (attached) to the annual Report on CSR.

(6) Expenditure :-

- A company undertaking impact assessment may book the expenditure towards Corporate Social Responsibility for that financial year, which shall not exceed two percent of

the total CSR expenditure for that financial year or fifty lakh rupees whichever is higher.

CSR Reporting :-

- ① The Board's Report of a company u/s 134 [ch-9] pertaining to any financial year shall include an annual report on CSR containing particulars.
- ② Annexure I and II are provided to the CSR rules as format for such annual Reporting.
- ③ In case of a foreign company, the balance sheet filled under section 381 of the Act, shall contain an annual Report on CSR [ch-11].

Others :-

- ① CSR policy means a statement containing;
 - (a) The approach and direction given by the board of a company; taking into account the recommendation of CSR committee
 - (b) Includes guiding principles for selection, implementation and monitoring of

activities as well as formulation of the annual action plan.

- (2) Administrative overhead means the expenses incurred by the company for 'general management and administration' of corporate social responsibility functions in the company but shall not include the expenses directly incurred for the designing, implementation, monitoring and evaluation of a particular corporate social responsibility project or programme.
- (3) International organisation means an organisation notified by the central government as an international organisation under section 3 of the united nations (Privileges and Immunities) Act, 1947 to which the provisions of the schedule to the said Act apply.
- (4) Net profit means the net profit of a company as per its financial statement prepared in accordance with the applicable provisions (net profit shall be calculated in accordance with provisions of section 198) of the Act, and but shall not include the following namely:-

(i) Any profit arising from any overseas branch or branches of the company whether operated as a separate company or otherwise;

AND

(ii) Any dividend received from other companies in India, which are covered under and complying with the provisions of section 135 of the Act.

(5) A company may also collaborate with other companies for undertaking projects or programmes or CSR activities in such a manner that the CSR committees of respective companies are in a position to report separately on such projects or programmes in accordance with these Rules.

(6) The board of a company shall satisfy itself that the funds so disbursed have been utilised for the purposes and in the manner as approved by it and the chief financial officer or the person responsible for financial management shall certify to the effect.

(7) The statutory provision and provisions of CSR Rules, 2014, is to ensure that

while activities undertaken in pursuance of the CSR policy must be relatable to schedule VII of the companies Act 2013, the entries in the said schedule VII must be interpreted liberally so as to capture the essence of the subjects enumerated in the said schedule. The items enlisted in the amended schedule VII of the Act, are broad-based and are intended to cover a wide range of activities.

- ⑧ In case of specified IFSC public company and specified IFSC private company the section 135 shall not apply for period of 5 years from the commencement of business of a specified IFSC public company and specified IFSC private company.