

# CSR provisions in CA Act, 2013- Compliances and Opportunities

## **Seminar on charitable trusts**

**Pune Branch of WIRC of ICAI**

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**By CA Dr J Sridhar, Company Secretary, Bajaj Auto Credit Limited,**

**Past President, ICSI**

**BCOM, FCA, FCS, LLB, MMS, PhD, ICSI-ISA**

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# SECTION 135

**Applicability to companies:**

**Net worth => 500 crore**

**Turnover => 1000 crore**

**Net profit => 5 crore**

**in the immediately preceding financial year**

**Obligations :**

**to constitute a csr committee of board**

**of 3 or more directors - at least one id**

**companies not required to have ids - 2 or more directors**

**directors' report to disclose composition of committee**

# Obligations of CSR Committee

- i.** To formulate and recommend to the Board a CSR Policy -  
With the activities under Schedule VII
- ii.** To recommend the amount of expenditure to be incurred  
on CSR
- iii.** To monitor the CSR Policy from time to time.

# Obligations of Board

- i. After taking into account the CSR Committee recommendations,
  - a. to approve the CSR Policy
  - b. to disclose the contents of policy in its report
  - c. to place it on Company website
- ii. To ensure that activities included in CSR Policy are undertaken.
- iii. To ensure that the company spends in every financial year at least 2% of average net profits made during three immediately preceding financial years or where company has not completed three years since incorporation, during such preceding financial years.  
In pursuance of CSR Policy
- iv. To give preference to the local area or areas around it where it operates for spending.

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- v. If company fails to spend such amount -

The Board shall in its report specify the reasons for not spending

If it relates to other than ongoing project, to transfer such unspent amount to prescribed fund within six months from end of financial year.

If it relates to any ongoing project, to transfer within 30 days from the end of the financial year to 'Unspent CSR account' in a scheduled bank and such amount to be spent as per CSR Policy within a period of three years; if not so spent, to transfer to the prescribed fund within 30 days from the completion of third financial year.

- vi. If company spends in excess of mandate, it can be set off against the requirement in any of succeeding three financial years.

- vii. Any default in compliance will result in penalty up to twice the shortfall or Rs 1 crore, whichever is less.  
Officer in default up to 1/10<sup>th</sup> the shortfall or Rs 2 Lakhs, whichever is less.

- viii. If mandate is less than Rs 50 lakhs, no requirement to constitute CSR Committee.
- ix. Net profit to be calculated as per Section 198 and shall exclude certain amounts as per Rules.

# SCHEDULE VII

## Activities which may be included in csr policies

- Eradicating hunger, poverty, malnutrition, promoting healthcare, sanitation, safe drinking water
- Promoting education, employment enhancing vocation skills
- Promoting gender equality, empowering women, old age homes, facilities for senior citizens, helping socially and economically backward groups
- Environmental sustainability, flora and fauna, conservation of natural resources, etc
- National heritage, art and culture etc
- Armed forces veterans, war widows etc
- Rural sports, nationally recognized sports, etc
- Contribution to pm's national relief fund, pm cares fund, etc
- 8 Contribution to incubators, r&d projects, etc
- Rural development projects
- Slum area development
- Disaster management, etc



# COMPANIES CSR POLICY RULES, 2014

## a. Important definitions -

- i. Administrative Overheads - general management and administration of csr functions - shall exclude expenses directly incurred for designing, implementation, monitoring and evaluation of a csr project or program.**
- ii. Csr - activities undertaken pursuant to section 135 - shall not include -**
  - **activities undertaken in pursuance of normal course of business**
  - **Activity undertaken outside india except for training of Indian sports personnel**
  - **Contribution directly and indirectly to any political party**
  - **Activities benefiting employees of the company**
  - **Activities supported on sponsorship basis for deriving marketing benefits**
  - **Activities for fulfilment of any statutory obligations**

**iii. Csr policy - means a statement containing approach and direction given by board with recommendation of csr committee and includes guiding principles for selection, implementation and monitoring of activities + formulation of annual action plan.**

**iv. Net profit - as per section 194- but shall exclude -**

- Any profit from any overseas branch**
- Any dividend received from other companies in india covered under and complying with section 135**

**v. Ongoing project - a multi year project undertaken in fulfilment of its csr obligations having timelines not exceeding three years excluding the financial year in which it was commenced. It shall include -**

- A project initially not approved as a multi year project but subsequently extended beyond 1 year by board based on reasonable justification**

# CSR Rules (contd)

## b. Important provisions

- i. Company which ceases to be covered under 135 for three consecutive financial years need not constitute a csr committee or comply with other provisions
- ii. Csr implementation -
  - Can be undertaken by company itself or through -
    - Section 135 company,
    - Registered public trust or
    - Registered society
  - 11 Having 12a and 135g certificates
  - Established by company either singly or along with any other company
  - Where not established so, established track record of at least three years in undertaking similar projects
  - With csr-1 registration with mca

# CSR Rules (contd)

- Board to satisfy itself that the funds disbursed are utilized for specified purposes
  - Cfo to certify to that effect
  - Board to monitor implementation of ongoing project as per approved timelines, year wise allocation etc
- iii. Csr committee's obligations -
- To formulate and recommend to board an annual action plan which shall include -
    - List of csr projects or programs that are approved
    - Manner of execution
- 12 Modalities of utilization of funds and implementation schedules
- Monitoring and reporting mechanism
- Need and impact assessment
  - board may alter the plan at any time as per recommendation of csr committee based on reasonable justification.

# CSR Rules (contd)

## IV. Administrative overheads-

- Shall not exceed 5% of total csr expenditure for the financial year

v. Any surplus arising out of csr activities shall not form part of business profit and shall be ploughed back into same project or transferred to unspent csr account or prescribed fund as the case may be

- Any excess amount spent may be set off in any of the three succeeding financial years- with a board resolution to that effect

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Capital asset acquired or created shall not be held by the company but only by section ← company, trust or society or beneficiaries of the project or a public authority

## VII. CSR reporting-

- Annual report on csr in the prescribed form shall be part of directors' report

# CSR Rules (contd)

**viii. Company with csr obligation =>10 cr to undertake impact assessment through an independent agency of every project with outlay of => 1 cr and after expiry of at least 1 year from completion of project**

- **Impact assessment report to be placed before the board and annexed to annual report**
- **Impact assessment expenditure shall not exceed 2% of the total csr expenditure or Rs 50 Lakhs whichever is higher**

**ix. Company shall disclose on the website-**

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**Composition of the csr committee**

- **Csr policy**
- **Projects approved by the board**

# ANNUAL REPORT FOR CSR

**ANNUAL REPORT FOR CSR SHOULD CONTAIN INTER-ALIA THE FOLLOWING :**

- **BRIEF OUTLINE ON CSR POLICY**
- **COMPOSITION OF CSR COMMITTEE, MEETINGS, ATTENDANCE ETC.**
- **DETAILS OF IMPACT ASSESSMENTS CARRIED OUT DURING THE YEAR**
- **AMOUNT AVAILABLE FOR SET OFF**
- **COMPUTATION OF CSR OBLIGATION FOR THE FINANCIAL YEAR**
- **CSR AMOUNT SPENT/UNSPENT FOR ONGOING PROJECTS AND OTHER THAN ONGOING PROJECTS**
- 15 **DETAILS OF UNSPENT CSR ACCOUNT FOR PRECEDING THREE FINANCIAL YEARS**
- **DETAILS OF CSR AMOUNT SPENT FOR ONGOING PROJECTS OF PRECEDING FINANCIAL YEARS**
- **DETAILS OF CAPITAL ASSETS CREATED OR ACQUIRED**
- **REASONS IF COMPANY HAS FAILED TO SPEND 2% OF PROFITS**
- **TO BE SIGNED BY MD AND/OR CHAIRMAN OF CSR COMMITTEE**

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# CIRCULARS, NOTIFICATIONS, FAQS OF MCA- esp 25 Aug 2021

**NUMEROUS CIRCULARS/NOTIFICATIONS/FAQS HAVE BEEN ISSUED BY MCA RIGHT SINCE 2014**

- **CIRCULAR DATED 25 AUGUST 2021 IS PERHAPS THE MOST COMPREHENSIVE CIRCULAR CURRENTLY IN FORCE.**
- **THIS CIRCULAR COVERS THE FOLLOWING IN DETAIL**
  - ❑ **APPLICABILITY OF CSR**
  - ❑ **CSR FRAMEWORK**
  - **CSR EXPENDITURE - CALCULATION ASPECTS**
  - **CSR ACTIVITIES - DO'S AND DON'T'S**
- **16 CSR IMPLEMENTATION**
  - **CONCEPT OF ONGOING PROJECT**
  - **TREATMENT OF UNSPENT CSR ACCOUNT**
  - **CSR ENFORCEMENT**
  - **IMPACT ASSESSMENT**
  - **CSR REPORTING AND DISCLOSURE**

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# Opportunities

**more and more companies are getting into csr fold;**

**Quantum of csr expenditure is growing by the year**

**All companies have become highly conscious of their social responsibility, not merely as compliance**

**Csr departments are becoming highly professional**

**Csr functioning is now technology-aided .**

**Csr professionals are important functionaries in every company**

**Independent audit, internal audit etc required by every company**

**Cas , CS etc play a crucial role in csr management**

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**thanks**

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