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Modern CSR - A Shift From Profit Maximization to Profit Optimization and Shareholders to Stakeholders

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Abstract

There is today a growing perception among enterprises that sustainable business and shareholder value cannot be achieved solely through maximizing short – term profits but instead through market-oriented yet responsible behaviour.CSR is the process by which an organization thinks about and evolves its relationships with stakeholders for the common good, and demonstrates its commitment in this regard by adoption of appropriate business processes and strategies. Thus CSR is not charity or small donations. Corporate Social Responsibility is also called Corporate Citizenship...

Taking a closer look, each of the eleven areas of CSR prescribed in Schedule VII of Section 135 in the revised Companies Act of 2013 could be linked to multiple SDGs. To illustrate this point with a few examples: CSR area 1 on eradicating poverty, hunger and malnutrition and promoting preventive healthcare and sanitation could be correlated to SDG goals #1 (No Poverty), #2 (Zero Hunger), #3 (Good Health & Well Being) and #6 (Clean Water & Sanitation). Similarly, CSR area #2 on promoting education and vocational skills, including special education for the aged,

differently-abled and women, and livelihoods could be correlated with SDGs #1 (No Poverty), #2(Zero Hunger), #4 (Quality Education) and #8 (Decent Work and Economic Growth). CSR area #3 on promoting gender equality, empowering women, providing housing for women, orphans, elders and daycare centres for children and reducing inequalities faced by socially and economically backward groups could be correlated with SDGs #1 (No Poverty), #5 (Gender Equality) and #10 (Reduced Inequalities).

Keyword : C.S.R (Corporate Social Responsibility),M.C.A (Ministry of Corporate Affairs),

S.D.G (Sustainable Development Goal)

Profit maximization is the primary aim of a capitalist economy. The mantra of hard-core capitalism is profit, more profit and only profit, but recently a new concept has emerged called co-operational capitalism or co-op capitalism. This "new" capitalism, though focused on the profit motive, also incorporates the essence of cooperation, accountability, and values in the social context. Such an idea of modern capitalism is reflected incorporates, too. For the new generation of corporate leaders, profit optimization is more critical than only profit maximization. Hence there is a shift in accountability from shareholders to stakeholders (including employees, consumers and affected communities),and a growing realization that long-term business success can be achieved only by companies that recognize that the economy is an "open subsystem of the earth's ecosystem which is finite, non-growing and materially closed."

Concept of C.S.R

The concept of CSR is not simple to define; various concepts and themes overlap this term. The concepts of corporate citizenship, sustainable business, environmental responsibility, the triple bottom line, social and environmental accountability, business ethics and corporate accountability are all very much linked with CSR.

The term CSR itself came into common use in the early 1970s.The last decade of the twentieth century witnessed a shift in focus from charity and traditional philanthropy towards a more direct engagement of business in mainstream development and concern for disadvantaged groups in society. In India, there is a growing realization that business cannot succeed in isolation and social progress is necessary for sustainable growth. An ideal CSR practice has both ethical and philosophical dimensions, particularly in India where there is a wide gap between sections of people in terms of income and standards as well as socio-economic status (Bajpai, 2001).

Importance

CSR HAS BECOME AN IMPORTANT ISSUE BECAUSE OF THE FOLLOWING FACTORS:

- CSR helps in strengthening the relationship between companies and stakeholders.
- It enables continuous improvement and encourages innovations.
- Attracts the best industry talent as a socially responsible company.
- Provides additional motivation to employees.
- Mitigates risk as a result of its effective corporate governance framework.
- Enhances the ability to manage stakeholder expectations.

History and Evolution of Indian CSR:

India has the world's most prosperous tradition of corporate social responsibility. Though the term CSR is comparatively new, the concept itself dates back to over a hundred years. 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.

Phases of Evolution

Phase 1 (1850 - 1914)	**Phase 2 (1910 - 1960)**	**Phase 3 (1950 - 1990)**	**Phase 4 (1980 onwards)**
Purely philanthropy and charity during industrialization; corporation is only responsible to owners and managers.	CSR as social development during the Independence struggle; the corporation is responsible to owners, managers and employees.	CSR under the "mixed economy paradigm"; the corporation is responsible for owners, managers and other target environments.	CSR in a globalized world is confused; the corporation is responsible to owners, managers, other target environments and the public at large.

CSR Activities in India

India is the first country to require that some firms spend a percentage of their profits on socially responsible activities (as designated by law), or explain why they do not. This rule is part of Section 135 of the Companies Act 2013, which lays out the approach to CSR in two broad steps – first, by specifying which firms are subject to Section 135, and second, by specifying the obligations of these firms. Section 135 only applies to firms that satisfy at least one of three thresholds in any financial year – either having net worth (the face value of shares initially issued by the corporation, adjusted for subsequent retained earnings and various reserves) exceeding INR 5 billionturnover (i.e., sales) exceeding INR 10billion, or net profits exceeding INR 50 million. All publicly traded and privately held firms with operations in India (including foreign-owned firms) are subject to Section 135 if they cross any of the thresholds.Moreover, the "in any financial year" language appears to indicate that these thresholds apply going forward from the effective date of the Companies Act 2013.

If a firm crosses any of these thresholds, then:

- it must constitute a "Corporate Social Responsibility" (CSR) committee with three directors, of which one must be independent,
- it must disclose the composition of the CSR committee,
- the CSR committee must formulate a CSR policy recommending the kinds and amounts of CSR spending the firm is to pursue, and the committee must monitor that
- policy
- the Board is to approve and publicize the firm's CSR policy (after taking into account the CSR committee's recommendations) and to ensure that the policy is followed,and
- the Board is to ensure that the firm spends at least 2% of the firm's average net profits (over the last three years) on activities listed in the firm's CSR Policy or providereasons for why this spending level was not achieved (i.e., a "comply-or-explain "rule)

It is noteworthy that the "comply-or-explain" rule only applies to the amount spent onCSR (i.e., 2% of average net profits); the other requirements (items (I) to (IV)) are mandatory, and failure to meet them would trigger liability regardless of what explanation was provided. Failure to meet the

2% spending requirement would not trigger liability if an acceptable explanation for failing to meet it were provided (although it is not entirely clear to whom such an explanation must be provided and what the standard of "acceptability" is). If such an explanation is not provided and the firm failed to spend at least 2% of average net profits on CSR activities, then Liability would be triggered here too. The penalty on the firm and every officer of the firm who violates Section 135 is INR 10,000 for the first day of the violation plus an additional INR 1,000 a day if the violation continues.

Finally, the Ministry of Corporate Affairs (MCA) has promulgated a set of rules in 2014 that provides a list of the activities that satisfy the requirement for CSR spending. The activities listed are comprehensive and cover a large swath of what is typically considered CSR and perhaps more (e.g., spending on education, health, poverty eradication, environment, arts, gender equality, reducing other inequalities, some designated government programs, funds for technology incubators in Government Academic institutions), thereby leaving firms with considerable discretion in directing their CSR spending. However, the MCA's rules do not count as CSR spending those expenditures that would have been undertaken in the ordinary course ofbusiness, that are meant to benefit employees or political parties, or that relate to activities occurring outside of India.

Key Concerns

The threshold limit of Rs.5 crores net profit for applicability of CSR requirements seems, in comparative terms, to be on the lower side vis-à-vis net worth and turnover thresholds of Rs.500 crores and Rs.1,000crores respectively. This may result in companies getting covered under CSR even when they do not meet net worth/turnover criteria.

- It is not clear whether a company will need to create a provision in its financial statements for the unspent amount if it fails to spend 2% on CSR activities in a particular year.
- After some initial confusion over the tax applicable, it is now clear that CSR expenditure will be taxable, although, for a few activities, tax exemption will be allowed from the financial year 2014-15. However, there is no clarity yet on these activities.

Critiques

- A disturbing aspect of Section 135 relates to the linking of a company's profit-making with the development of local areas. Companies are required to spend 2% of their average net profits from the preceding three years and focus on local areas around which they operate. This is an absurd proposition as it will increase inter-state disparities in social indicators. For instance, states like Gujarat, Maharashtra and Andhra Pradesh (as also Odisha in 2013), with their large number of industrial units, are likely to see more significant social development on account of higher CSRspend by the private sector.

- The rules in the Companies Act-2013 would make it difficult for companies to pursue strategic CSR - aligned to business strategy - since any expense that can be traced back to financial profits may have to be set aside from CSR, as indicated by the law.
- It is possible that companies would prefer to spend on activities specified in the Act, (such as protection of national art, heritage and culture, promotion of sports, contribution to the Prime Minister's National Relief Fund), which have a lower long-run social impact, ignoring real problems like inter-regional inequality or particular social stigmas.

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 essential 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. India is the first country to have legislated CSR mandates. Others like Sweden, Norway, UK, South Africa, Ghana and Ivory Coast follow some specific codes for sustainable and socially accountable business practices, like Social Labour Plan (SLP) and Local Content Law (LCL). The US, though it has a vibrant presence of industrial firms and big corporates, has only some mandates for reviewing reports on corporate spending. There is no strong legislation, as in India, for CSR spending.

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.The new legislation will likely 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 (including the corporate sector, government, not-for-profit organizations and the community at large) 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 exists a multitude of enabling organizations and regulatory bodies such as the Department of Public Enterprises (DPE), Ministry of Corporate Affairs (MCA), and Indian Institute of Corporate Affairs (IICA). These institutions have already set the wheels in motion and are playing an essential role in making CSR a widespread practice and in ensuring success in reducing inequalities without risking business grow

From the limited experience over the last few years, some lessons nonetheless emerge.The government introduces CSR because they want the corporation to become more responsible for society or for its stakeholders itself. As we know, CSR offers real opportunities for corporations to contribute to various activities that directly or indirectly help the welfare of society. Corporations are social entity so they must take care of all stakeholders; it is vital for them to take charge of this responsibility in an efficient way so that all participants of the corporation feel satisfied. As we know, corporates cannot stand alone; they also need the support of their society at large which is essential for their development and goodwill. Many large corporations are now taking steps to improve their environmental and social performance through the use of voluntary initiatives such as codes of conduct, environmental certification and reporting, social audits, fair trading schemes and social investment programmes**.** Corporates and government must work together and through this, they can bring dramatic changes in the welfare schemes of society

References

Co-op Capitalism believes that public goods must be managed in ways to ensure fair access and use by all - Noreena Hertz.

John Elkington gave the triple Bottom Line concept; it talks about the social, economic and environmental responsibilities of organizations.

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Net worth is based on a firm's "paid-up share capital" (the number of shares outstanding, multiplied by the face value at which the share certificates were originally issued), but also takes account of the face value of preferred stock, and adjusts for retained earnings and various reserves (see Dharmapala and Khanna, 2013).

9 Section 135 (1), Companies Act 2013. The US Dollar totals are based on an exchange rate of 1 USD = 65 INR.

Ministry of Corporate Affairs, *Companies (Corporate Social Responsibility Policy) Rules* (2014) (*hereinafter*CSR Rules).

Id.

Section 135 (2), Companies Act 2013

Section 135 (3), Companies Act 2013.

Section 135 (4), Companies Act 2013.

Section 135 (5), Companies Act 2013. Section 135 (5) also notes that the firm should give preference to CSR spending in its local areas; this has generated some negative commentary (Afsharipour and Rana, 2014).

Section 450, Companies Act 2013 (also attaching liability to other persons who are in default). Although it is not clear who is to enforce Section 135 from its wording, one can assume that it is the Ministry of Corporate Affairs. Note that if the violation is repeated within a 3 year period, the fine can be doubled – Section 451, Companies Act 2013.

CSR Rules (2014). These rules become part of Schedule VII of the Companies Act 2013.

CSR Rules (2014).

business that is meant to benefit employees or political parties or that relate to activitiesoccurring outside of India.19

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