

CSR MADE EASY

Corporate Social Responsibility

Learning Series ♦ Vol.- 1 ♦ Issue - 1 ♦ 2015-16

SUMMARY OF CSR LAW IN INDIA



A Joint Initiative of Samhita, SAGA & CAclubindia.com

A Joint initiative of: _____



SAMHITA SOCIAL VENTURES

502, Atlanta Centre, Sonawala Cross Lane, Goregaon East, Mumbai 400 063 INDIA.
Website : www.samhita.org



SOUTHERN ACCOUNTABILITY GOVERNANCE ALLIANCE PVT. LTD.

6202/2, III Floor, Block I, Dev Nagar, Karol Bagh, Delhi 110 005, 91 11 45009371,
e-mail : anjanikumar@gmail.com, mfogla@yahoo.com



CAClubIndia.Com

Jasola District Center Mathura Road New Delhi - 110025 Contact Number: 088803-20003
contact@caclubindia.com

Knowledge Partners : _____



**Centre for Innovation Incubation & Entrepreneurship,
IIM Ahmedabad**

www.ciieindia.org



Credibility Alliance

www.credibilityalliance.org



Centre for Promoting Accountability (CPA)

www.cpaindia.in



Habitat for Humanity India

www.habitatindia.in

SUMMARY OF CSR LAW IN INDIA

*Advisory Support** :

Priya Naik, Founder & Jt. MD, Samhita

Vivek Jain, Founder & CEO, CAClubIndia.com

Sanjay Patra, ED, FMSF, Noida

*Principal Author *** :

Dr. Manoj Fogla

Co Authors :

Anjani Kumar Sharma, Director, SAGA

Sanea Vakaliya, CIIE, IIM Ahmedabad

Suresh Kejriwal, FCA

* The Advisory support members have contributed to the document, however, the entire content is not necessarily the opinion of the advisory group.

** The Authors can be contacted at mfogla@yahoo.com, agarwalkejriwal@vsnl.com, anjanikumar@gmail.com

CONTENTS

♦	INTRODUCTION	01
♦	EFFECTIVE DATE	01
♦	COMPANIES TO WHICH IT APPLIES	01
♦	FINANCIAL CRITERIA OF APPLICABILITY OF CSR	03
♦	AMOUNT TO BE SPENT ON CSR	03
♦	MEANING OF NET PROFIT & THE AVERAGE NET PROFIT	03
♦	SURPLUS GENERATED FROM CSR ACTIVITIES	04
♦	CSR COMMITTEE	05
♦	ROLE OF CSR COMMITTEE	05
♦	ROLE OF THE BOARD OF THE COMPANY	06
♦	CSR EXPENDITURE	06
♦	EXPENDITURES WHICH ARE NOT CONSIDERED AS CSR EXPENDITURE	07
♦	MODES OF IMPLEMENTATION OF CSR EXPENDITURE	07
♦	PERMISSIBLE CSR ACTIVITIES AS PER SCHEDULE VII	08
♦	CONTENT OF CSR REPORT	10
♦	COLLABORATION WITH OTHER CORPORATES	10
♦	PENALTY FOR NON COMPLIANCE OF CSR PROVISIONS	11
♦	PENALTY FOR REPEATED DEFAULT	12
♦	WHEN COMPANY CEASES TO COMER UNDER CSR CRITERIA	12
♦	FORMAT FOR THE ANNUAL REPORT ON CSR ACTIVITIES (ANNEXURE - 01)	13
♦	RESPONSE OF FINANCE MINISTER IN RAJYA SABHA ON PENAL PROVISIONS UNDER CSR (ANNEXURE - 02)	15

Summary of CSR Law in India

Introduction

- 1.1.1** Corporate Social Responsibility (CSR) in India is a statutory requirement under the Companies Act, 2013. Specifically Section 135 and Schedule VII of the Act provide for the CSR compliances along with the Companies (Corporate Social Responsibility Policy) Rules, 2014.
- 1.1.2** India is the leading country in the world to pass such a legislation. In this chapter a brief summary of the CSR provision and the analysis thereof has been provided.

Effective Date

- 1.2.1** CSR law became effective from 1st April, 2014. In other words, it will apply from the financial year 2014-15. The Companies Act, 2013 received the assent of the President of India on 29th August 2013.
- 1.2.2** The Ministry of Corporate Affairs (MCA) has vide its notification dated 27 February 2014, and in exercise of powers conferred by Section 1(3) of the Companies Act, 2013 ('the Act'), notified 1 April 2014 as the date on which the provisions of Section 135 and Schedule VII of the Act shall come into force. The MCA has also notified the Companies (Corporate Social Responsibility Policy) Rules, 2014 ('the Rules') to be effective from 1 April 2014.

Companies to Which it Applies

- 1.3.1** As per section 135(1) of CSR Law applies to every Indian Company fulfilling at

least one of the following criteria in **any financial year**:

- Net worth of rupees five hundred crore or more,
- Turnover of rupees one thousand crore or more,
- Net Profit of rupees five crore or more.

1.3.2 Meaning of any financial year –

- a) Vide General Circular No. 21/2014 MCA has clarified that “Any financial year” referred under sub-section (1) of Section 135 of the Act read with Rule 3(2) of Companies CSR Rule, 2014 implies ‘any of the three preceding financial years.
- b) Therefore, to determine applicability from Financial Year 2014-15 onwards, the company would need to ascertain fulfilment of any of the three financial criterion in the following manner :

Any of the financial criterion fulfilled in either of the three years	CSR provisions applicable for
2011-12, 2012-13, 2013-14	2014-15
2012-13, 2013-14, 2014-15	2015-16
2013-14, 2014-15, 2015-16	2016-17

- c) Hence any financial criterion met for financial year 2010-11 or prior, but not met in the block of three years from 2011-12 to 2013-14 would mean that company is not required to comply with CSR provisions for the financial year 2014-15.

1.3.3 As per Rule 3(1) of CSR Rules, 2014 –

- (1) Every company **including its holding or subsidiary and a foreign company** defined under clause (42) of section 2 of the Act having its branch office or project office in India which fulfils the criteria specified in sub-section (1) of section 135 of the Act shall comply with the provisions of section 135 of the Act and these rules :

Provided that 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 clause (a) of sub-section (1) of section 381 and section 198 of the Act.

1.3.4 The criterion needs to be fulfilled by individual company. Therefore, if the holding

company or the subsidiary company themselves fulfils the criteria specified in Section 135, all the provisions mentioned therein become applicable to such company. Merely being a holding or subsidiary company of a company which fulfils the criteria under section 135(1) does not make the company liable to comply with section 135, unless the company itself fulfils the criteria.

Financial Criteria of Applicability of CSR

- 1.4.1** Under sub Section(1) of Section 135 the CSR law applies to every Company fulfilling at least any one of the following criteria :
- ◆ Net worth of rupees five hundred crore or more,
 - ◆ Turnover of rupees one thousand crore or more,
 - ◆ Net Profit of rupees five crore or more during any financial year.
- 1.4.2** In case of Foreign Companies the Net Profit of such Company shall be determined as per the profit and loss account prepared under Section 381(1)(a) read with Section 198 of the Companies Act, 2013, see para 1.3.3.

Amount to be Spent on CSR

- 1.5.1** As per Section 135(5) of the Companies Act, 2013, 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.

Meaning of Net Profit & the Average Net Profit

- 1.6.1** Section 135 has not defined the term ‘Net Profit’ though explanation to Sec. 135 says “For the purposes of this section “average net profit” shall be calculated in accordance with the provisions of section 198.”
- 1.6.2** As per Rule 2(f) of CSR Rules, 2014 – “Net profit” means the net profit of a company as per its financial statement prepared in accordance with the applicable provisions of the Act, 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;

Provided that net profit in respect of a financial year for which the relevant financial statements were prepared in accordance with the provisions of the Companies Act, 1956, (1 of 1956 shall not be required to be re-calculated in accordance with the provisions of the Act.

- 1.6.3** It is important to understand the meaning of Net Profit & the Average Net Profit for the purpose of determining the coverage and/or to determine the amount to be spent. On combined study of sections and rules as stated above, we understand that to determine the coverage as well as to determine the amount to be spent, NET PROFIT should be calculated on the basis of section 198 of the Companies Act, 2013 and thereafter deduction should be made as provided in Rule (2)(f) of the CSR Rules i.e. the deduction should be made of profit arising from overseas branches of a company or dividend received from other companies in India which are covered under & complying with the provisions of section 135 of the Act.
- 1.6.4** The Rule also makes it clear that the Net Profit in relation to financial statement prepared under 1956 Act shall not be required to be re-calculated as per Section 198 of the Companies Act. However, in our opinion, the profit from overseas branches of a company or dividend received from other companies in India should be deducted while determining the Net Profit for the Financial Year falling under 1956 Act.
- 1.6.5** In case of Foreign Companies the Net Profit of such Company shall be determined as per the profit and loss account prepared under Section 381(1)(a) read with Section 198 of the Companies Act, 2013.

Surplus Generated from CSR Activities

- 1.7.1** Under Rule 6(2) the CSR Policy of the Company shall specify that the surplus arising out of the CSR projects or programs or activities shall not form part of the business profit of a Company. In other words surplus generated from CSR activities should be ploughed back to CSR funds over and above the 2% contribution. In our opinion only income from the surplus from CSR activities will be taxable if the CSR activities are implemented directly by the Company. Such surplus shall be exempted from tax in the hands of the company, if the CSR activities are implemented through registered NPOs and the income from CSR directly accrues to the implementing NGOs.
- 1.7.2** Some instances of surplus from CSR funds / activities could be (i) Fees collected, if any, from the trainees or beneficiaries, (ii) Sale of any CSR asset, etc.

CSR Committee

1.8.1 All Companies to which the CSR laws apply shall under Rule 5 constitute CSR Committee of 3 or more members including one independent member. However, the requirement of 3 member including independent will not be applicable in following circumstances :

- (i) an unlisted public Company or a private Company covered under sub-Section (1) of Section 135 which is not required to appoint an Independent Director pursuant to sub-Section (4) of Section 149 of the Act, shall have its CSR Committee without such Director;
- (ii) a private Company having only two Directors on its Board shall constitute its CSR Committee with two such Directors;
- (iii) with respect to a Foreign Company covered under these Rules, the CSR Committee shall comprise of at least two persons of which one person shall be as specified under clause (d) of sub-Section (1) of Section 380 of the Act and another person shall be nominated by the Foreign Company.

1.8.2 It may be noted that as per clause (d) of sub-Section (1) of Section 380 of the Act a Foreign Company is required to provide the name and address of one or more person resident in India authorised to accept on behalf of the Company service or process and any notices or other documents required to be served on the Company.

Role of CSR Committee

1.9.1 The CSR Committee shall institute a transparent monitoring mechanism for implementation of the CSR projects or programs or activities undertaken by the Company. Further the role of CSR Committee shall include :

- ◆ Formulate the CSR policy and recommend to the board.
- ◆ Planning, Budgeting and Recommending expenditure on CSR to the board.
- ◆ Prepare strategic plans & implementation schedules for CSR expenditures.
- ◆ Monitor the implementation of the CSR projects or programs or activities undertaken by the Company.
- ◆ Ensure that the surplus (if any) generated from CSR activities are ploughed back to the CSR funds over and above the 2% contribution.

Role of the Board of the Company

- 1.10.1** The Board of the Company will be legally accountable for the CSR activities and shall have an oversight function over the CSR Committee. Further the role of the Board shall include :
- ◆ To constitute the CSR Committee.
 - ◆ To approve the CSR policy.
 - ◆ To keep oversight control of the CSR activities.
 - ◆ To ensure legal compliance of at least 2% spending.
 - ◆ Report CSR activities.
 - ◆ Disclose reason for non compliance or under spending, if any under Section 134(3)(o) of the Companies Act, 2013 specifying the reasons for not spending.
 - ◆ Ensure that report of the Board on CSR activities including the content of the CSR policy are uploaded on the official website of the Company.

CSR Expenditures

- 1.11.1** CSR expenditure shall include all expenditure including contribution to corpus on projects or programs relating to CSR activities, approved by the Board on the recommendation of its CSR Committee, but does not include any expenditure on an item not in conformity or not in line with activities which fall within the purview of Schedule VII of the Act. Hence CSR activities have to be confined to the activities described in the Schedule VII of the Act, though it has been clarified that the activities as per Schedule VII has to be interpreted liberally.
- 1.11.2** It may be noted that CSR expenditure are subject to the following conditions :
- ◆ The CSR activities have to be confined to the activities described in the Schedule VII of the Act.
 - ◆ The CSR expenditure can be made directly by the Company.
 - ◆ The CSR expenditure can be made through registered organisations having at least 3 years experience in similar programmes.
 - ◆ Contribution to Corpus of a Trust/ society/ section 8 companies etc. will qualify as CSR expenditure as long as (a) the Trust/ society/ section 8 companies etc. is created exclusively for undertaking CSR activities or (b) where the corpus is created exclusively for a purpose directly relatable to a subject covered in Schedule VII of the Companies Act 2013.

- ◆ The CSR expenditure can also be made through registered organisation promoted by the Company. In such cases the condition of having at least 3 years experience in similar programmes, will not apply.
- ◆ The Company should give priority to the local area and the areas around it where it operates.
- ◆ The Company should spend at least 2% of the average Net Profit made during the three immediately preceding financial years.
- ◆ The expenditure on employees shall not be permissible, unless it is upto 5% on capacity building pertaining to CSR. Further upto 5% on capacity building pertaining to CSR shall also be permissible for the implementing NPOs.
- ◆ Only CSR activities within India will be taken into consideration. Any activity outside India will not be considered even if it complies with all other conditions.
- ◆ If the Company is unable to spend CSR funds as per provisions then it will have to report under Section 134(3)(o) of the Companies Act, 2013 specifying the reasons for not spending.

Expenditures which are not considered as CSR Expenditure

- 1.12.1.** The Company cannot make any contribution to any political party or political purpose as defined under Section 182 of the Companies Act, 2013.
- 1.12.2.** Activities undertaken in pursuance of the normal course of business of the Company is not CSR. For instance a Company engaged in plantation cannot claim that the plantation is made as a part of its CSR activity.
- 1.12.3.** The CSR projects or programs or activities that benefit only the employees of the company and their families shall not be considered as CSR activities in accordance with section 135 of the Act [Rule 4 / 5 of CSR Rule, 2014].

Modes of Implementation of CSR Expenditure

- 1.13.1** The relevant text of Rule 4(2) and (3) of CSR Rules, 2014 is provided as under:

“(2) The Board of a company may decide to undertake its CSR activities approved by the CSR Committee, through a registered trust or a registered society or a company established under section 8 of the Act by the company, either singly or alongwith its holding or subsidiary or

associate company, or alongwith any other company or holding or subsidiary or associate company of such other company, or otherwise.

Provided that –

- (i) If such trust, society or company is not established by the company, either singly or alongwith its holding or subsidiary or associate company, or alongwith any other company or holding or subsidiary or associate company of such other company it shall have an established track record of three years in undertaking similar programs or projects.
- (ii) The company has specified the project or programs to be undertaken through these entries, the modalities of utilization of funds on such projects and programs and the monitoring and reporting mechanism.
- (3) A company may also collaborate with other companies for undertaking projects or programs 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 programs in accordance with these rules.”

1.13.1. In the light of above rules, the CSR expenditures can be implemented as under :

- The CSR expenditure can be made directly by the Company.
- The CSR expenditure can be made through registered organisations having at least 3 years experience in similar programmes.
- The CSR expenditure can also be made through registered organisation promoted by the Company. In such cases the condition of having at least 3 years experience in similar programmes, will not apply.
- The company may also collaborate with other companies for undertaking projects/programs or CSR activities.

Permissible CSR Activities as per Schedule VII

1.14.1 The various activities permissible under CSR as per Schedule VII are as under :

- (i) eradicating hunger, poverty and malnutrition, promoting health care including preventive health care and sanitation ***including contribution to the Swach Bharat Kosh set-up by the Central Government for the promotion of sanitation*** and making available safe drinking water;

¹ Inserted vide Notification dated 24.10.2014

- (ii) promoting education, including special education and employment enhancing vocation skills especially among children, women, elderly, and the differently abled and livelihood enhancement projects;
- (iii) promoting gender equality, empowering women, setting up homes and hostels for women and orphans; 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;
- (iv) 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 ²**including contribution to the Clean Ganga Fund set-up by the Central Government for rejuvenation of river Ganga;**
- (v) 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 arts and handicrafts;
- (vi) measures for the benefit of armed forces veterans, war widows and their dependents;
- (vii) training to promote rural sports, nationally recognized sports, paralympic sports and Olympic sports;
- (viii) contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government for socio-economic development and relief and welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women;
- (ix) contributions or funds provided to technology incubators located within academic institutions which are approved by the Central Government;
- (x) rural development projects.] ³**slum area development**

1.14.1 It is important to understand the implication of General Circular No.21/2014 dated 18th June 2014, Ministry of Corporate Affairs. As per the circular 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.

² Inserted vide Notification dated 24.10.2014

³ Inserted vide Notification G.S.R (E) 568 dated 06.08.2014

Content of CSR Report

- 1.15.1** The Board of the Company shall prepare a CSR report under Section 134(3)(o), the Companies (CSR Policy) Rules, 2014 provide the format (*Annexure 1*) for reporting CSR activities annually. In the CSR report the CSR Committee also is required to provide a responsibility statement regarding proper implementation of CSR activities.
- 1.15.2** The major areas/points to be reported are as under :
1. A brief outline of the company's CSR policy, including overview of projects or programs proposed to be undertaken and a reference to the web-link to the CSR policy and projects or programs.
 2. The Composition of the CSR Committee.
 3. Average Net Profit of the Company for last three financial years
 4. Prescribed CSR Expenditure (two per cent of the amount as in item 3 above)
 5. Details of CSR spent during the financial year.
 - (a) Total amount to be spent for the financial year;
 - (b) Amount unspent, if any;
 - (c) Manner in which the amount spent during the financial year is required to be mentioned in the prescribed format (*see Annexure 1*)
 6. In case the Company has failed to spend the two per cent, of the average Net Profit of the last three financial years or any part thereof, the Company shall provide the reasons for not spending the amount in its Board report.
 7. A responsibility statement of the CSR Committee that the implementation and monitoring of CSR Policy, is in compliance with CSR objectives and Policy of the Company.

Collaboration with Other Corporates

- 1.16.1** Under Rule 4(3) a Company may also collaborate with other Companies for undertaking projects or programs 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 programs in accordance with these Rules. In other words, a group of Companies can jointly execute CSR programmes, such Companies can be holding and subsidiary Companies also. The modalities of such joint execution has not been explained in the Act or the Rules.

Penalty for Non Compliance of CSR Provision

- 1.17.1** There is no specific penal provision under which a Company can be penalised for violation of CSR Rules. However, there are two provisions under the Act which provide for penalties and can be invoked against CSR violation.
- 1.17.2** It may be noted that, under Section 134(3)(o) the board of Directors are required to report on the CSR policy and its implementation during the year. Further, under Sub Section (8) of Section 134 if a Company contravenes the provisions of this Section, 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 every officer of the Company 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.
- 1.17.3** The statute has not provided any specific penalty regarding inability of the company to spend CSR funds, Sub Section (8) of Section 134 requires the Board to provide information on CSR policy and activity. Therefore, if a company provides legitimate reasons for not spending CSR funds it should not be treated as non-compliance.
- 1.17.4** There is no other penal section for CSR related violations. The Finance Minister on the floor of Rajya Sabha also referred only to section 134 when a query pertaining to CSR violation was raised. The query and answer of Finance Minister is provided in **Annexure-02**.
- 1.17.5** Further, Section 450 of the Companies Act is another general Section where punishment can be provided for any offence/violation where penal provision has not been specifically provided. Under this Section, if a Company or any officer of a Company or any other person contravenes any of the provisions of this Act or the Rules made thereunder, or any condition, limitation or restrictions subject to which any approval, sanction, consent, confirmation, recognition, direction or exemption in relation to any matter has been accorded, given or granted, and for which no penalty or punishment is provided elsewhere in this Act, the Company and every officer of the Company who is in default or such other person shall be punishable with fine which may extend to ten thousand rupees, and where the contravention is continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the contravention continues.
- 1.17.6** To sum up, under the Act for violation of CSR provisions penalties and punishments can be to the extent of (i) 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 (ii) fine which may extend to ten thousand rupees, and where the contravention is continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the contravention continues.

Penalty for Repeated Default

- 1.18.1** It may further be noted that under section 451 penalties can be levied for repeated default. If a company or an officer of a company commits an offence punishable either with fine or with imprisonment and where the same offence is committed for the second or subsequent occasions within a period of three years, then, that company and every officer thereof who is in default shall be punishable with twice the amount of fine for such offence in addition to any imprisonment provided for that offence.
- 1.18.2** This section seeks to provide that if any default is committed for the second or subsequent occasion within a period of 3 years, it shall be punishable with imprisonment as provided and twice the amount of fine for such default. This provision can also be invoked if CSR is not complied with on a repeated basis.

When Company Ceases to Come under CSR Criteria

- 1.19.1** When a Company ceases to come under CSR criteria, even then it has to continue CSR activities for 3 years. In other words if the CSR criteria does not apply for three consecutive financial years, then the Company can stop complying with the CSR regulations.
- 1.19.2** Under Rule 3(2) every Company which ceases to be a Company covered under sub-Section (1) of Section 135 of the Act for three consecutive financial years shall not be required to –
- (a) Constitute a CSR Coommittee; and
 - (b) Comply with the provisions contained in sub-Section (2) to (5) of the said Section, till such time it meets the criteria specified in sub-Section (1) of Section 135.

FORMAT FOR THE ANNUAL REPORT ON CSR ACTIVITIES

FORMAT FOR THE ANNUAL REPORT ON CSR ACTIVITIES TO BE INCLUDED IN THE BOARD'S REPORT

1. A brief outline of the company's CSR policy, including overview of projects or programs proposed to be undertaken and a reference to the web-link to the CSR policy and projects or programs.
2. The Composition of the CSR Committee.
3. Average net profit of the company for last three financial years
4. Prescribed CSR Expenditure (two per cent. of the amount as in item 3 above)
5. Details of CSR spent during the financial year.
 - (a) Total amount to be spent for the financial year;
 - (b) Amount unspent , if any;
 - (c) Manner in which the amount spent during the financial year is detailed below.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
S. No	CSR project or activity identified.	Sector in which the project is covered	Projects or programs (1) Local area or other (2) Specify the State and district where projects or Programs was undertaken	Amount outlay (budget) project or program wise	Amount spent on the projects or programs Subheads : (1) Direct expenditure on projects or programs. (2) Overheads :	Cumulative expenditure upto to the reporting period.	Amount spent: Direct or through implementing agency
1							
2							

3							
	TOTAL						

* Give details of implementing agency:

6. In case the company has failed to spend the two per cent, of the average net profit of the last three financial years or any part thereof, the company shall provide the reasons for not spending the amount in its Board report.
7. A responsibility statement of the CSR Committee that the implementation and monitoring of CSR Policy, is in compliance with CSR objectives and Policy of the company.

Sd/-	Sd/-	Sd/-
(Chief Executive Officer or Managing Director or Director)	(Chairman CSR Committee)	(Person specified under clause (d) of sub-section (1) of section 380 of the Act)
		(wherever applicable)

RESPONSE OF FINANCE MINISTER IN RAJYA SABHA ON PENAL PROVISIONS UNDER CSR

GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS

RAJYA SABHA
UNSTARRED QUESTION NO. 1742

ANSWERED ON TUESDAY THE 9TH DECEMBER, 2014
LEGAL BACKING FOR CSR COMPLIANCE

QUESTION

1742. SHRI DEVENDER GOUD T.:

Will the Minister of CORPORATE AFFAIRS be pleased to state:

- (a) whether the Company Law does not have any provision for Corporate Social Responsibility (CSR) defaulters;
- (b) whether there are any plans to bring an amendment to the Bill to give CSR compliance a legal backing;
- (c) if so, the details thereof; and
- (d) the estimated money that companies are likely to spend in 2014-15, public and private sector-wise?

ANSWER

THE MINISTER OF CORPORATE AFFAIRS

(SHRI ARUN JAITLEY)

- (a): Section 135 of the Companies Act, 2013 mandates every company above the given threshold levels to comply with Corporate Social Responsibility (CSR) provisions of the Act, and to disclose contents of its CSR policy in its Board's Report. The penalty provision for non-compliance in this regard is prescribed under Section 134 (8) of the Act.
- (b) and (c): Provisions for CSR compliance by companies, as prescribed under Section 135 of the Act, have the force of law.
- (d): This is the first year of CSR implementation by companies under the Act. The likely amount of CSR expenditure for the year 2014-15 would be known only after the Annual Financial Statements are filed by companies due after September, 2015. It may be prudent to not speculate on the quantum of CSR expenditure at this stage.

About Publishers

Samhita means “collective good.” We help people and organizations “do good better” by creating symbiotic relationships between those who are bringing about change on the ground and those who have the means and resources to enable that change.

The “Samhita ecosystem” provides a credible platform and thought leadership to enable NGOs, companies, donor agencies, individuals, philanthropists, foundations and researchers to achieve their specific goals and make informed decisions that translate into purposeful action and large-scale social impact. Since 2009, Samhita has provided structured and professional services to enable companies, donors and NGOs to collaborate with each other and impact thousands of lives in India.

SAGA is a consulting organisation on CSR and Charities in South East Asia. SAGA came into existence in the year 2003, it was founded by Dr. Manoj Fogla. SAGA is involved in providing legal support and accompaniment on financial and governance issues to Corporates and Charities in South Asia. SAGA is also engaged in research and publication of materials that provide authentic analysis and precise determination of various legal and governance issues. SAGA has its head quarter in Cuttack and branches in New Delhi and Mumbai.

CAclubindia.com is a web based portal founded by Vivek Jain. It is based on the belief that Knowledge is Power and its power increases manifold if it is shared and distributed. It is an unit of Interactive Media Pvt. Ltd, engaged in creating platforms for sharing of knowledge amongst professionals. CAclubindia.com, an interactive platform for Finance Professionals and Taxpayers was launched in the spring of September 1999. Initially it was a site meant for knowledge sharing among CAs but later with its gaining popularity it spread its wings amongst the whole finance professionals community.

Today CAclubindia provides its 1.4 million plus members with a gamut of services like: A platform for interaction with persons of their own fraternity. Updates on various issues in the Finance world (mostly relevant to CA's, CS's, ICWA's and MBA's) Most recent advancement/ reviews/ discussions in current Finance related issues. The facility to maintain their profile and communities and be in touch with their peers by just logging on to the site.



Knowledge Partners



Published by **Mr. Anjani Kumar Sharma** on behalf of
SOUTHERN ACCOUNTABILITY GOVERNANCE ALLIANCE PVT. LTD.
6202/2, III Floor, Block I, Dev Nagar, Karol Bagh, Delhi 110 005, 91 11 45009371,
e-mail : anjanikumar@gmail.com, mfogla@yahoo.com

CSR Made Easy aims to provide relevant informations and guidance on Corporate Social Responsibility and Allied Issues. The informations provided are correct and relevant to the best of the knowledge of the author. It is suggested that the reader should cross check all the facts, law and contents before using them. The author or the publisher will not be responsible for any loss or damage to any one, in any manner. Copyright with the Principal Author. No part of this publication may be reproduced in any form, without permission in writing of the Principal Author.