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Corporate Social Responsibility in India now an Obligation

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DECLARATION

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We undersigned Kalpeshkumar L Gupta & Dr. Ritesh K Patel certify that the Research Paper “*Corporate Social Responsibility in India now an Obligation*” is properly referenced and will be solely responsible for responding to any claims of plagiarism of the paper.

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Abstract

Corporate Social Responsibility (CSR) has gained considerable interest among academicians and business organizations in the past decade. Corporate social responsibility has become an inevitable priority for business leaders across the globe in recent times. More and more Indian business organizations embrace the practice of CSR under different names such as corporate sustainability, social responsibility, and corporate citizenship. Corporate Social Responsibility is a management concept whereby companies integrate social and environmental concerns in their business operations and interactions with their stakeholders (United Nations Industrial Development Organization). Now CSR has become an obligation for corporates in India as per the new Companies Act, 2013.

Present paper will discuss the background of CSR at world and India level alongwith Corporate Governance and its relationship with CSR. It will highlight the provisions of new Companies Act regarding corporate social responsibility and critically evaluate the same.

Keywords: - Corporate Social Responsibility, CSR Practices, CSR Laws across the Globe, India, Obligation, etc.

Theme 6:- Corporate Governance & Law

INTRODUCTION

CSR isn't particular programme, it's what we do every-day, maximizing positive impact and minimizing negative impact

- Responsible Business Summit, May 2013, London

Every business starts with the motive of profit making but it cannot sustain in longer run keeping this only motive in consideration. Business cannot grow when surroundings start failing. For sustainability of business, it should have sound Corporate Governance policy. In absence of this it will be compelled for dissolution. Business needs to address shareholders as well as stakeholders which consist of suppliers, customers, creditors, the bankers, the employee, society at large. As per the report of the committee appointed by the SEBI on Corporate Governance under the Chairmanship of Shri Kumar Manglam Birla, "The fundamental objectives of Corporate Governance are the enhancement of shareholder value, keeping in view the interest of other stakeholders". It is stated in the principles of corporate governance outlined by Organization For Economic Co-operation & Development (OECD) that the corporate governance framework should recognize the rights of stakeholders established by law or through mutual agreements and encourage active co-operation between corporations and stakeholders in creating wealth, jobs and the sustainability of financially sound enterprise.(OECD Principles of Corporate Governance, 2004). Corporate Social Responsibility helps to address the stakeholder issues. In the age of globalized world, the concept of CSR can't be ignored by the corporate firms. By keeping in mind the changing market scenario business firms have to change their work culture as per the market demand (Anupam Sharma, Ravi Kiran, 2012)

India's 10 most profitable companies will together spend Rs 2,625 crore on activities including promotion of commerce, art, science, sports, education, research, social welfare, religion, charity and protection of the environment. The spending will, preferably, have to be in the immediate vicinity of their businesses. (Krishnakant, M Saraswathy, 2014)



Figure 1 Listed Indian Firms CSR Spending of FY13

Source : - http://www.business-standard.com/article/companies/listed-indian-firms-to-spend-rs-8-100-cr-on-csr-in-fy13-113100600288_1.html accessed on January 15, 2014

CSR and Small & Medium Enterprises (SMEs)

SMEs play significant role in Indian economy. It helps larger companies, generate employment in the country. SMEs employ close to 40% of India's workforce and contributing 45% of India's manufacturing output (Goyal, Malini, 2013). SMEs tend to focus on short-term activities that involve lesser operational costs. A survey conducted by UNIDO in 2008 on five SME clusters in India, found that 31% to 79% of the SMEs in these clusters, preferred charity donations rather than long-term programmes for local communities (Handbook on Corporate Social Responsibility in India, 2013). Study done by Gupta Shaveta, Sukhmani, & Neha, Kalra (2012) shows that very few SMEs are consciously engaged in implementing CSR initiative. The reason can be attributed to lack of financial resources, no support from the side of government, such as incentives and schemes, no important impact on the image of the company and lack of awareness in the society. They also can join in CSR activity in greater sense. SMEs can do this activity in cluster so that they need not worry regarding operation of CSR activity.

Following is the gist of survey conducted by KPMG on CSR reporting in India.

IT Companies have the best quality reports in India while Pharmaceuticals sector has lowest average score.

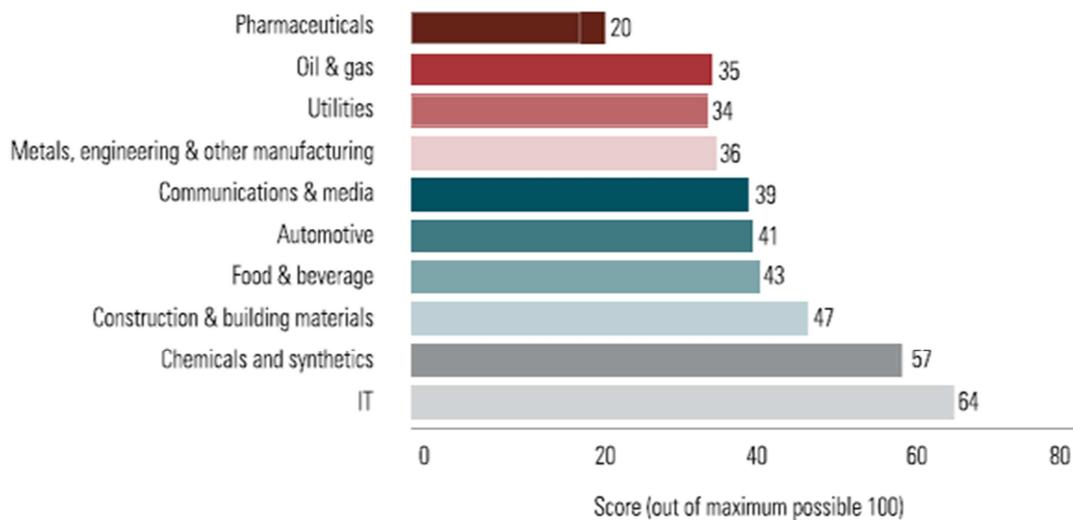


Figure 2 SECTOR Wise CRR Survey 2013 (Source: - KPMG in India, India Corporate Responsibility Reporting Survey 2013, December)

74 percent of Indian CR reports discuss some social and environmental aspects of their products and services. Only one in 10 reports discusses these impacts in details. Disclosure on the outcome of stakeholder engagement and actions taken is low. Only 23 percent clearly report on actions taken in response to feedback from all stakeholders. 32% Indian CR reports does not specify the timelines of achievement of targets which shows the lack of commitment towards timely achievement (Firstpost Business, 2014). Survey clearly indicates that only 16% of the top 100 listed firms in India have a corporate responsibility strategy in place (Business Standard, 2011).

CORPORATE GOVERNANCE AND CORPORATE SOCIAL RESPONSIBILITY

As per the report of Cadbury Committee “Corporate Governance is the System by which companies are directed and controlled”. The current situation of business world requires from companies to adopt full set of corporate governance and sustainability. Before, tangible assets and financial reports were the main concern of a company to create value for its shareholders. Now intangible assets are higher than tangible assets as percent, and concentrating switches

to non-financial reports and information affects bottom line. These changes come through implementing corporate governance and sustainability principles in a certain company. (Saltaji, Issam, M (2013).

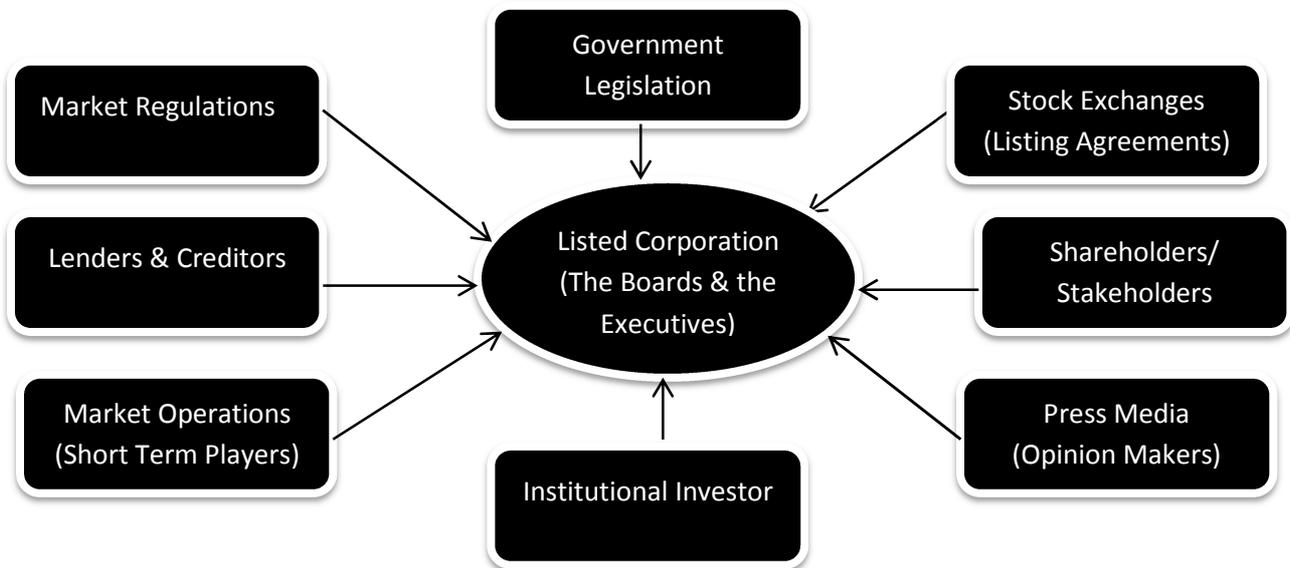


Figure 3 Determinants of Corporate Governance (Source:-Balasubramanian N, “Corporate Governance & Stewardship”, McGraw Hill Education (India) Private Limited, New Delhi, 2010, p 18)

“CRAFTED” principles of Corporate Governance (2010)

Main principles of corporate governance are:

- **C**onsistency of policy created
- **R**esponsibility to take initiative
- **A**ccountability for decision taken
- **F**airness indecision taken
- **T**ransparency to gain trust
- **E**ffectiveness for long term success
- **D**eployment of all principles

Now have a look at the Corporate Social Responsibility part. CSR is a management concept whereby companies integrate social and environmental concerns in their business operations and interactions with their stakeholders. CSR is generally understood as being the way through which a company achieves a balance of economic, environmental and social

imperatives.(Unites Nations Industrial Development Organization). CSR creates bonding between corporation and its stakeholders. Friedman M (1970) defines CSR as follows: “CSR is to conduct the business in accordance with shareholders’ desires, which generally will be to make as much money as possible while conforming to the basic rules of society, both those embodied in law and those embodied in ethical custom.”Four characteristics of CSR: Economic, Legal, Ethical and Discretionary (Carrol A, 1999)

Researchers should not focus simply on market returns, oron accounting-based measures of performance, but should take account of the stock market’s valuation of such activity using models consistent with theory. Whatever one’s views on the role of financial markets versus the interests of other stakeholders, it is clearly going to be far easier to persuade af irm’s shareholders of the case for engagement with CSR if it can be demonstrated that such engagement can be value enhancing as well as beneficial to the wider community. In view of Gregory & Whittaker (2013), the correct way of appraising this is by a rigorous analysis of valuation effects rather than a simple focus on either realized returns or price to book ratios.

Despite the important roles of CG and CSR and their effect on Corporate Financial Performance (CFP), only limited empirical evidence examines the causality and endogeneity issues between CG and CSR. CSR as a missing link between CG and firm performance. If we do not have conflict of interest between stakeholders and shareholders, CG should directly influence firm performance. Since, we have a conflict of interest between the two; however, CSR is acting as a conflict-resolution device between stakeholders and shareholders. (H. Jo,M. A. Harjoto, 2012)

CORPORATE SOCIAL RESPONSIBILITY IN OTHER COUNTRIES.

In this part we will look at the CSR activities in various countries.

United States (US)

The U.S. Department of State’s strong commitment to Corporate Social Responsibility (CSR) is exemplified in a comprehensive approach to providing support and guidance on areas of responsible corporate conduct. (U.S. Department of State, July 17, 2013).

Sector-specific CSR initiatives center on responsible resource management, energy efficiency and climate change. The Bureau of Energy Resources (ENR) leads the U.S. Department of

State's efforts to ensure that diplomatic relationships advance U.S. interests in access to secure reliable and ever-cleaner sources of energy. It promotes good governance and transparency in energy-sector management and access to commercially viable and environmentally sustainable energy for the 1.3 billion people currently without energy services. The U.S. Department of State recognizes reducing corruption is inherently linked to corporate and societal interests, particularly CSR. The Bureau of International Narcotics and Law Enforcement Affairs (INL) promotes anti-corruption internationally and supports CSR by fostering clean business practices, engaging the business community in anti-corruption efforts and promoting a level playing field. The State Department also partners with the private sector to tackle a number of significant global challenges, including the spread of HIV/AIDS and youth unemployment¹.

United Kingdom (UK)

The UK government's CSR policy is highly visible and very robust. The reason for this, in addition to the strong union tradition, is the pressure exerted on the government by numerous civil society campaigns. At the same time, the UK government views CSR as a voluntary commitment on the part of the individual enterprise, which it encourages businesses to undertake using the argument of economic self-interest ("business case" for CSR). In 2004, after four years of debate, the UK parliament enacted corporate responsibility regulations. The most important consequence of this legislation was that all UK companies became legally obliged to publish an annual sustainability report. Additionally, the law expanded the responsibilities of company directors so that they now also have a duty of care for society and the environment. According to the Government Sustainable Development Strategy, all ministries must compile a Sustainable Development Action Plan and report on their activities. The New Deal for Communities (NDC) is an interdepartmental initiative that was launched in 1998. With a budget of £50 million over a period of 10 years, this program focuses on tackling social problems in the most deprived areas².

¹ www.humanrightsfirst.org/workers_rights/wr_other/wr_other.htm, Jan24, 2006

² *ibid*

Canada

Although the Canadian government lacks formal policies promoting CSR with incentives or disincentives, two government agencies—Industry Canada (IC) and Foreign Affairs and International Trade Canada (DFAIT)—have successfully raised awareness in the private sector of CSR and its advantages. Both IC and DFAIT seek to grow the Canadian economy and improve domestic conditions for investment and its competitiveness abroad. Within this mandate, both agencies promote CSR principles and practices to Canadian businesses because “it makes companies more innovative, productive, and competitive.” IC’s user-friendly website (www.ic.gc.ca) provides information and links to tools that businesses can use to advance their CSR activities (Kimberly Ascoli and Tamar Benzaken, 2009).

Mexico

In 2004, the Mexican Ministry of Economics created the “Support Fund for Micro, Small, and Medium Enterprises,” with a budget of more than 3 million pesos and the goal of promoting economic development based on competitiveness, productivity, and sustainability. Part of the fund’s focus is to implement CSR programs in small and medium enterprises (SMEs) as a way to promote socially responsible behavior and sustainability. The government works with COMPITE, a Mexican nonprofit organization, and provides subsidized CSR consulting services (covering up to 70 percent of the costs) for SMEs. Since the beginning of this government partnership, COMPITE has seen a sharp increase in the demand for CSR consulting services, and the organization is confident that Mexican SMEs that were not previously aware of CSR concepts are now able to implement certain sustainable and responsible practices in their firms. One of the program’s major challenges is the ability for SMEs to implement measures within stipulated timeframes and to sustain these activities. Additionally, several companies remain skeptical of CSR and wish to see objective results, highlighting the importance of measurement mechanisms that quantify results. In addition to helping SMEs incorporate CSR initiatives into their strategies, this program has increased trust between the private sector, the federal and local governments, and the Mexican population (Kimberly Ascoli and Tamar Benzaken, 2009).

France

In early 2004, the French government established the Forum des Amis du Pacte Mondial, a national network of business organizations whose members have signed the Global Compact

and that are engaged in promoting and expanding CSR practices. The forum now has more than 400 members and is the globe's largest association of Global Compact companies. The network is sponsored by The Business Institute and by the organization Businesses for the Environment. With this, France has found a mechanism to introduce the Global Compact into national CSR policies.

Germany

In Germany, the most important interdepartmental government advisory agency in the area of CSR is the RNE – Council for Sustainable Development. The council was created in 2001 by the federal government and assigned the task of publicly communicating the topic of sustainability while advising the government on sustainability-related topics. The coalition government formed after the 2005 elections has reaffirmed the council's mandate. In August 2005, the federal government passed the Sustainability Guide, thereby both documenting implementation of the national sustainability strategy and continuing the 2002 strategy. One of the guide's key areas is CSR, defined by the RNE as an approach to sustainable development at the corporate level.

Europe

The term “Corporate Social Responsibility” (CSR) has only taken recognizable shape in the European context over the past five years. This has resulted from a number of factors, including the European Commission's attempt to place CSR on the European agenda. The first EU initiatives in the area of CSR concentrated on the labor market and employment policies. The EU green paper defines CSR as “a concept whereby companies integrate social and environmental concerns in their business operation and their interaction with their stakeholders on a voluntary basis.” The EU's conception of CSR thus rests on the notion of free choice, and it derives from the ability to measure a company's performance in terms of economic, social and ecological criteria (in accordance with the “triple bottom line” concept). CSR is seen as a rational investment on the part of an individual company and, thus, part of its business strategy and not an additional, external activity.

The European dimension of CSR was last reconfirmed by the European Alliance for Corporate Social Responsibility called to life by EU Commission Vice-President Günter Verheugen in March 2006. In its recent publications, the EU Commission emphasizes CSR's potential to augment the reworked Lisbon Strategy's goals of increased growth and

employment (EU Commission, 2006). Until now, however, very few national governments have pursued coherent, comprehensive strategies for promoting CSR; at best, they have implemented localized initiatives and random measures. Yet CSR is gradually developing into an area of increased political action. A majority of those laws passed since the year 2000 have consolidated CSR activities or initiated new ones. This is true, however, only of the older EU members; in Eastern Europe, this process is still in its infancy. Most progress is being seen in the areas of reporting, i.e. the required or voluntary publication by businesses of information related to sustainability issues. Among European nations, France and Sweden lead the field with their concrete information requirements and their thoroughgoing use of CSR reports (Birgit Riess & Carolin Welzel, 2006).

Indonesia

Recently Government of Indonesia has released a government regulation on CSR. There are different dimensions of CSR programmes. Environmental reason is mostly influence CSR mandatory objectives in Indonesia. There have been several human rights violations committed by multinational enterprises throughout Indonesia. CSR is expected can be “bridge” to integrate and synthesize the two different interests of society and corporation (Sabela Gayo, 2012).

SECTION 135 OF COMPANIES ACT, 2013

Followings are provisions regarding Corporate Social Responsibility in new Companies Act, 2013.

1. Every company having *net worth* of Rs. 500 crore or more, or *turnover* of Rs. 1000 crore or more or a *net profit* of Rs. 5 Crore or more during any financial year shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director.
2. The Board’s report under sub-section (3) of Section 134 shall disclose the composition of the CSR Committee.
3. CSR Committee shall,

- a. Formulate and recommend the board, a CSR Policy which shall indicate the activities to be undertaken by the company as specified in Schedule VII of Act;

*Schedule VII :-*Activities which may be included by companies in their CSR Policies

Activities relating to :-

- i. Eradicating extreme hunger and poverty;
 - ii. Promotion of education;
 - iii. Promoting gender equality and empowering women;
 - iv. Reducing child mortality and improving maternal health;
 - v. Combating human immunodeficiency virus, acquired immune deficiency syndrome, malaria and other diseases;
 - vi. Ensuring environment sustainability;
 - vii. Employment enhancing vocational skills;
 - viii. Social business projects;
 - ix. 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, and Scheduled Tribes, other backward classes, minorities and women; and
 - x. Such other matter as may be prescribed.
- b. Recommend the amount of expenditure to be incurred on the activities referred to in clause (a); and
 - c. Monitor the CSR policy of the company from time to time.

4. The Board of every company referred to in sub-section (1) shall,

- a. After taking into account the recommendation made by the CSR Committee, approve the CSR Policy for the company and disclose contents of such policy in its report and also place it on the company's website, if any, in such manner as may be prescribed; and
- b. Ensure that the activities as are included in CSR Policy of the company are undertaken by the company.

5. The Board of every company referred to in sub-section (1), shall ensure that the company spends, in every financial year, at least 2% of the average net profit of the company made during the three immediately preceding financial years, in pursuance of its CSR Policy:

Provided that the company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for CSR Activities.

Provided further that if the company fails to spend such amount, the Board shall, in its report made under clause (o) of sub-section (3) of Section 134, specify the reason for not spending the amount.

CONCLUDING REMARKS

As we seen above that as per recently passed company law CSR has become mandatory for corporate as per criteria provided. In other words we can say that CSR has become now an integral part of Corporate Governance. As per Section 135 of Companies Act, 2013, they have to spend 2% of the average net profit of the company made during the three immediately preceding financial years, in pursuance of its CSR Policy. CSR Committee to be formed for formulating and recommending CSR policy to board, recommending amount to be spent and monitor the CSR policy time to time.

Before this mandate, there were companies which were involved in CSR activity in greater sense. For them CSR is the integral part of the corporate policy. They believe in Triple Bottom Line principle which leads to sustainable development. Arup Roy Choudhary, CMD of NTPC Ltd said “We value the partnerships; we build with the communities around our units. For us Corporate Social Responsibility is Corporate Social Relationship”. As per latest figures companies are spending between 1 to 2 percent for CSR activity e.g. TCS (1.60%), Coal India (1.65%), SBI (1.64%), Infosys (1.74%), ONGC (0.49%), Reliance (1.91%) etc. All listed companies are averagely spending around 2% for CSR activity. This new mandate will not affect the companies which are already involved in CSR activity as their business activity and spending between 1.5 to 2 percent. They will have to spend some more on CSR to reach the level of 2 percent. It will awake the companies which were not doing CSR activity at all or doing minimal. Many are of the opinion that CSR should be voluntary

activity but at the other hand some experts opined that CSR must be mandatory affairs for the companies as they are affecting its stakeholders and not taking enough care for them. By doing CSR activity they can become responsible companies for the country.

Small and Medium Scale Enterprises (SMEs) are also doing good job voluntarily in terms of CSR activity. They cannot spend significantly for major CSR activity as compared to larger organization but they can spend money by making cluster and take up some big CSR activities. Government should support them by way of giving relief in taxation so that they can be motivated towards CSR activity. Mandatory CSR policy is very good steps towards the sustainable development. We can see CSR policy in other countries as described above, there is strong involvement of Government and its agency in flourishing CSR activities in the companies. Statutory obligation alone will not help to achieve goal of CSR but collective effort from Government and Private players surely do that.

MANAGERIAL IMPLICATION

Present research paper will help corporate to make a comprehensive business strategy considering important aspects of Corporate Social Responsibility. Earlier CSR was voluntary act but now it's an obligation for them. For sound Corporate Governance, CSR has become salient part of it. SMEs also come up with some concrete plan for CSR activity. Government can make some robust policies as taken in other countries. In nutshell we can say that we need collective efforts for fulfilling obligation of CSR.

RESEARCH LIMITATION/SCOPE FOR FUTURE STUDY

Present research paper is based on secondary data available from various sources. New Companies Act, 2013 mandated CSR under Section 135. One can study the CSR in India before the new law and after its implementation. What will be the impact on companies which are already involved in CSR activity and on companies which are doing nothing about CSR or doing at minimal level?

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