

CSR & Social Governance

(Chapter 2)

(Total= 20 marks)

Time - 1 Hr

Answer the following question.

Case Study 1

Corporate social responsibility (CSR) is a proactive and synergistic business philosophy, while attention is paid to broader economic, environmental, and social issues in a balanced way. Augmenting profits is no longer the sole business performance indicator for the corporates and they have to play the role of responsible corporate citizens by undertaking activities for betterment of the society and the environment under the umbrella of Corporate Social Responsibility (CSR).

Organisations use resources that belongs to the society and it is expected that they should operate in a sustainable manner and spend some amounts for preservation and sustainability of resources which belong to the society.

Over the last two decades, significant economic growth and integration has taken place in the global economy, resulting in several changes in the way businesses operate. Governments across the world have been using different forms of regulations to improve corporate behavior so as to promote increased accountability, disclosures and transparency from them. Gone are the days when Milton Friedman, the reputed Economics Nobel laureate, opined in 1960s that companies have no responsibility towards the society and that their objective was primarily the enhancement of shareholders' wealth.

With the enactment of the Companies Act, 2013, CSR became a norm in India. India is perhaps one of the few countries in the world where CSR is mandated under the Statute. Companies Act, 2013 ["Act"] is a legislation which officially embarked on one of the world's largest experiments of introducing the concept of CSR as a mandatory provision.

Questions:

(5 marks each)

1. Explain the following activities which are not considered in the Corporate Social Responsibility as (CSR) activities.

Answer

Following activities are not considered as CSR activities. They are as under:

(i) activities undertaken in pursuance of normal course of business of the company:

Provided that 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 of new vaccine, drugs and medical devices 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 or organisations mentioned in item (ix) of Schedule VII to the Act;

(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 representing any State or Union territory at national level or India at international level;

(iii) contribution of any amount directly or indirectly to any political party under section 182 of the Act;

(iv) activities benefitting employees of the company as defined in clause (k) of section 2 of the Code on Wages, 2019 ;

(v) activities supported by the companies on sponsorship basis for deriving marketing benefits for its products or services;

(vi) activities carried out for fulfilment of any other statutory obligations under any law in force in India.

It may be noted that in common parlance 'normal course of business' refers to things which are routine in nature for business like sale, purchase etc. It refers to the usual course and routine of business activities. In the context of CSR, any activity which is part of core business of the company would not constitute CSR

2. Why is it important for companies to constitute a functions of CSR Committee for effective implementation of CSR initiatives?

Answer

The CSR Committee shall undertake the following functions:

formulate and recommend to the Board, a CSR Policy on the basis of the approach and direction given by the Board, which shall indicate the activities to be undertaken by the company in areas or subject, specified in Schedule VII to the Act and includes guiding principles for selection, implementation and monitoring of activities as well as formulation of the annual action plan; [section 135(3)(a) of the Act read with rule 2(f) of CSR Rules]

(a) recommend the amount of expenditure to be incurred on the activities referred to in clause (a) by way of formulating and recommending to the Board, an annual action plan in pursuance of CSR Policy of the company including the following:

(i) the list of CSR projects or programs that are approved to be undertaken in areas or subjects specified in Schedule VII to the Act;

(ii) the manner of execution of such projects or programs as specified in rule 4(1) of CSR Rules;

(iii) the modalities of utilisation of funds and implementation schedules for the projects or programs;

(iv) monitoring and reporting mechanism for the projects or programs; and

(v) details of need and impact assessment, if any, for the projects undertaken by the company; and recommend changes, if any, needed in the action plan with reasonable justification to that effect. [section 135(3)(b) of the Act read with rule 5(2) of CSR Rules]

(b) monitor the CSR Policy of the company from time to time. [section 135(3)(c) of the Act]

Case Study 2

"CSR Policy" is defined in rule 2(f) of the Companies (Corporate Social Responsibility Policy) Rules, 2014 as under:

"CSR Policy" means a statement containing the approach and direction given by the board of a company, taking into account the recommendations of its CSR Committee, and includes guiding principles for selection, implementation and monitoring of activities as well as formulation of the annual action plan.

The approach and direction for CSR is to be recommended by the CSR Committee to the Board, and based on the same, the approach and direction is finalised by the Board of Directors. The CSR Policy is to be prepared and recommended by the CSR Committee to the Board for its approval as per section 135(3)(a) of the Act read with rule 2(f) of the CSR Rules. This process may happen simultaneously also depending upon the convenience of the Board.

As per section 135(3)(a) of the Act, the CSR Policy shall indicate the activities to be undertaken by the company in areas or subjects, specified in Schedule VII to the Act. The guiding principles to be included in the CSR Policy as contemplated in the CSR Rules appear to be macro level indicators as to the areas in which CSR projects are proposed to be undertaken, which can be articulated in the annual action plan for each financial year.

It is recommended that CSR Policy should be drawn up to the extent it is relevant in the context of company and should be compatible with the legal requirements. CSR Policy should be approved by the Board of Directors and reviewed and updated, as and when required. It is recommended that a company should:

- i) Outline a CSR Policy to reflect the vision, mission and goals on a broader level
ii) CSR Policy should articulate broadly target group (marginalized group)/ geography (local/wider area) / sectors (health/education/ environment).

Questions:

(3 marks each)

1. What is the role of the Government in the approval and implementation of the CSR programmes/projects of a company?

Answer

Provisions of section 135, read with Schedule VII of the Act and Companies (CSR Policy) Rules, 2014 provide the broad framework within which the eligible companies are required to formulate their CSR policies including activities to be undertaken and implementation of the same. CSR is a board-driven process, and the Board of the company is empowered to plan, approve, execute, and monitor the CSR activities of the company based on the recommendation of its CSR Committee.

The Government has no direct role in the approval and implementation of the CSR programmes /projects of a company.

2. What are the mechanisms for monitoring the CSR process?

Answer

CSR is a Board-driven process, and the Board of the company is empowered to plan, decide, execute, and monitor the CSR activities of the company based on the recommendation of its CSR Committee. The CSR architecture is disclosure-based and CSR-mandated companies are required to file details of CSR activities annually in MCA21 registry. Companies are required to make necessary disclosures in the financial statements regarding CSR including non-compliance. The existing legal provisions such as mandatory disclosures, accountability of the CSR Committee and the Board, and provisions for audit of accounts of the company provide sufficient mechanisms for monitoring.

Q3. **(4 marks)**

It is ITC's Policy to direct its CSR Programmes, inter alia, towards achieving one or more of the following - poverty alleviation; promoting education and skill development; promoting healthcare including preventive healthcare; providing sanitation and drinking water; ensuring environmental sustainability; enabling climate resilience; rural development projects; creating livelihoods for people, especially those from disadvantaged sections of society; protection of national heritage, art and culture; preserving and promoting music and sports; and providing relief and assistance to victims of disasters and calamities. What is meant by CSR expenditure under the Companies Act, 2013?

Answer

- It will be the Company's endeavour to spend in every financial year, two percent of its average net profits during the three immediately preceding financial years (or such other limit as may be prescribed under the Act), on CSR Programmes in pursuance of this Policy.

- The CSR expenditure will include all expenditure, direct and indirect, incurred by the Company on CSR Programmes undertaken in accordance with the CSR Plan.

- Any surplus arising from the CSR Programmes will be used for CSR activities within six months from the end of the relevant financial year. Accordingly, any income arising from CSR Programmes will be netted off from the CSR expenditure and such net amount will be reported as CSR expenditure.

- If CSR expenditure in a financial year exceeds the statutory limit, such excess may be set-off against CSR expenditure for the next three financial years with the approval of the Board, on the recommendation of the CSR and Sustainability Committee.

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