GENERAL ESSAY 2020

Mandatory Corporate Social Responsibility under the Companies Act, 2013: Taking Stock

Corporate Social Responsibility mandates that companies integrate social and environmental concerns in their business operations and interactions with their stakeholders. CSR helps a company achieve a balance of economic, environmental and social imperatives ("Triple-Bottom-Line- Approach"), while at the same time addressing the expectations of shareholders and stakeholders.

CSR programme based on the Triple Bottom Line (TBL) Approach, which has proven to be a successful tool to assist them in meeting social and environmental standards without compromising their competitiveness. The TBL approach is used as a framework for measuring and reporting corporate performance against economic, social and environmental performance.

It is an attempt to align private enterprises to the goal of sustainable global development by providing them with a more comprehensive set of working objectives than just profit alone. The perspective taken is that for an organization to be sustainable, it must be financially secure, minimize (or ideally eliminate) its negative environmental impacts and act in conformity with societal expectations.

Now to the experience in India.

Six years after the Companies Act, 2013 made it mandatory for companies above a certain size and profitability to contribute a 2% percentage of their profits to social development, as corporate social responsibility, or CSR (Clause 135), we need to take stock. What the money should be spent on is defined in Schedule 7 of the Act.

Achievements

One, without this mandate, many companies, especially smaller ones, would not have been committed to social development.

Two, the emphasis on governance, stricter reporting and monitoring of CSR obligations have made for a more systematic approach to social development, encouraging companies to look at policy, structures, processes and projects as an integrated whole instead of merely trying to meet targets.

Three, the Act has been treated as a work in progress, and on review the rules have been continuously revised and broadened to allow more flexibility to enable companies to play a larger and more conscious role in communities. One particularly commendable change is that the CSR funds can be used as venture funds to support social entrepreneurship to create employment and socially beneficial products. Boards can add to the prescribed list if they can justify the inclusion within the broad framework of the Act and Rules.

Four, the mandatory spending rule has led to more initiatives to train social development professionals, so enlarging the pool from which NGOs and government can also draw.

Finally, it led to garner resources from the corporate sector to supplement government's own social development goals and programmes.

According to CRISIL, of the 4,939 companies listed on BSE and NSE, only about one-third met the criteria for mandatory spending.

On the debit side

Much of the corpus remains unspent.The reasons given for the underspend is that companies are not able to identify the right projects, or the right organisations to partner with them.

Many of the large companies, especially MNCs, often give only to the same few NGOs and do not attempt to locate more worthy NGOs or nurture grassroots-level NGOs.

At the same time, in their need to meet targets, some companies do not do due diligence of the NGOs chosen, and the lure of money is leading some NGO into unethical practices.

CSR funds are hardly being used to build up major research or teaching institutions by skilling their staff.Conducting research in green field areas offers another opportunity. These are yet to be fully utilised.

The bulk of the spending (37%) is on routine education, vocational skill development, environmental sustainability and slum development projects, though infrastructure development, social welfare and sports are slowly getting more money.

Linking core competencies to deliver better economic, social and environmental value by producing, for instance, cheap healthcare gadgets, energy-saving products and solutions to make drinking water accessible to the poorest is yet to become more common.

Sustainability of the projects taken up is another problem area. Instead of long-term commitment and nurturing of the projects undertaken, funding goes to meet new projects decided according to board interests or to meet targets in a particular year, leaving earlier projects stranded for funds.

While choosing projects, companies need to ask themselves critical questions such as: Will this help poor people to help themselves? Will it make communities more resilient? Are all stakeholders of CSR, including corporations, aligned with a common agenda of development, or are they driven by their separate motivations? Otherwise, CSR will remain just a collection of disparate projects without social impact.

The above are, however, implementation problems. If the aim of the Act was to inculcate business responsibility towards all the stakeholders, then there is still a long way to go. By equating social responsibility with money contributions, it implies that all that is required to be held socially responsible was to make the required contribution and all other transgressions will be forgiven. But how a company makes its profits is as important as what it does with its profits. Unfortunately, several instances can be given of how companies are behaving irresponsibly on this front, even though they may be compliant with clause 135.

Manufacturing denim, for instance, uses up 10,0000 litres for making an item. In a country where millions do not have access to drinking water, companies should not guzzle water. If industry treats, recycles and replenishes water, its contributions will be several times more valuable than its contribution of 2% of profits.

To conclude, instead of focusing merely on financial contributions, companies should be guided by what NandanNilekani has termed CLIFFE – providing client value, leadership by example, integrity, transparency, fairness and excellence. This will serve society far more in the long run.