

AN ANALYSIS OF CSR PROVISION IN INDIA WRT THE CHATTERJEE MODEL

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ABSTRACT

The CSR mandate was passed under the Companies Act, 2013; however, India initially faced great challenge in the transition and in the initial period of its implementation. It has changed the Indian socio-economic environment but how did it come into act is something to ponder about. This paper compares model (The Chatterjee Model) propounded by Dr. Chatterjee, with the CSR provision under Companies Act, 2013 i.e. Section 135, in order to establish that Section 135 incorporated almost all the suggestions given by model.

Keywords: SECTION 135 OF COMPANIES ACT, 2013, THE CHATTERJEE MODEL.

INTRODUCTION

The Chatterjee Model

The Chatterjee model of Corporate Social Responsibility (CSR) is mainly concentrated on the social developing program of the nation. So, the Chatterjee model envisaged a plan of partnerships and collaborations, that will build on each other's strengths - the Corporations with its time, money and energy resources; and the partners (civil societies/NGOs) with its manpower (expertise and experience) resources to give on the National priorities as laid down by the Schedule VII. "To ensure transparency and accountability, this model further makes reporting into the 8-column 'Format for the Annual Report on CSR Activities mandatory to be included in the Board's Report'. This reporting concept is based on the principle of "comply or explain". This means that although a company should spend 2% of its net profit on CSR projects and programmes, if, in a financial year, it does not do so, it is called upon to provide an "explanation" on its website and also in the Annual Director's Report." The Government does not stand in judgment on the quality or the validity of the explanation. However, if the company fails to comply with the 2% norm and also fails to provide any explanation, then it stands

to be held accountable under Section 134 of the Companies Act, 2013 which provides for stringent punitive measures. Thus, this involves complete and total transparency for each of the mandated Company.[1]

Section 135 of Companies Act, 2013

135. Corporate Social Responsibility

“(1) Every company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five 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 134⁶ shall disclose the composition of the Corporate Social Responsibility Committee.

(3) The Corporate Social Responsibility Committee shall, —

(a) formulate and recommend to the Board, a Corporate Social Responsibility Policy which shall indicate the activities to be undertaken by the company as specified in Schedule VII;

(b) recommend the amount of expenditure to be incurred on the activities referred to in clause (a); and

(c) monitor the Corporate Social Responsibility 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 recommendations made by the Corporate Social Responsibility Committee, approve the Corporate Social Responsibility 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 Corporate Social Responsibility 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 two per cent of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its Corporate Social Responsibility 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 Corporate Social Responsibility 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 reasons for not spending the amount.

Explanation. —For the purposes of this section “average net profit” shall be calculated

in accordance with the provisions of section 198.”

ANALYSIS OF CHATTERJEE MODEL AND SECTION 135

After going through the Chatterjee Model and Section 135 of Companies Act, 2013, it is clear that Section 135 majorly adopted all the criteria that were given by the Chatterjee Model.

1. Chatterjee Model talks about a CSR committee should have three or more Directors as the member, out of which one should be Independent Director which was incorporated in Section 135(1).
2. Chatterjee Model talks about CSR Policy which in compliance with objectives and policy of company which is incorporated in Section 135(3)(a) and 135(4)(b).
3. Chatterjee Model and Section 135, both talks about activates that has to be undertaken by the CSR committee prescribed under Schedule VII which is also projectivizing CSR work.
4. Chatterjee Model talk about 8 columns ‘Format for Annual Report on CSR Activities to be included mandatory in Board’s Report’ which is incorporated in Section 135’s Committee Report under Section 135(2) assigning CSR accountability to people.
5. The Chatterjee Model and Section 135(5), both talks about quantifying CSR spent by allowing 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, to be spent, in pursuance of its Corporate Social Responsibility Policy.
6. In Chatterjee Model, it talks about if committee fails to spend, it should explain on website and in Annuals Director’s Report same as Section 135 talks about explaining the reason for failure of spending the CSR money and to upload the activity on the website.
7. Chatterjee Model and Section 135 both talks about the punitive measures for failure of spending 2% of average net profit under Section 134 of Companies Act, 2013. [2]

CONCLUSION

After considering the economic outcome of CSR initiatives, companies in India must come forward to look after their communities and the environment in order to gain the societal acceptance of their business operations. Neglecting the need of the common people will cause detrimental effects on the overall reputation of those companies.

After going through the provisions of CSR under Companies Act, 2013 and the different models, it is evident that Section 135 incorporated most of the suggestions made by these models like that of developing a CSR Policy, CSR Committee, quantifying CSR spent etc.

REFERENCES

- [1] B. Chatterjee and N. Mitra, “CSR should contribute to the national agenda in emerging economies - the ‘Chatterjee Model,’” *Int. J. Corp. Soc. Responsib.*, 2017.
- [2] B. Siyobi, “Corporate Social Responsibility : An Assessment,” 2015.