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“Play by the rules

- Corporate social responsibility is here to stay ” by S L RAO

Corporate Social Responsibility (CSR) is a new entry in the Indian Companies Act (under clause 135). Every Company with a net worth of Rs 500 crores or more or turnover of Rs 1000 crores or more or net profit of Rs 5 Crores or more is to have a Board committee with at least one independent director, for CSR. These companies shall aim to spend at least 2% of the net profit based on three years’ average towards discharging their corporate social responsibility. If the expenditure is not incurred, the company’s annual report to shareholders should give the reasons.

The Board committee shall formulate the company policy for CSR. The activities under CSR shall cover those listed out in Schedule VII of the Bill. The committee will also recommend the expenditure to be incurred for CSR activities and monitor it. The activities covered are now known and the Ministry has been responsive to requests from ngo’s to add to them. Unlike donations under Section 80G of the Income Tax Act, these expenditures are not eligible for any tax concessions. (But donations to the PM’s relief Fund are so entitled).

When I wrote on this subject in 2012 and when it was first proposed, I argued against imposing philanthropy on companies. Though it is not yet compulsory, shortfalls have to be explained. The basic duties of a company are to run its operations honestly, follow all laws and regulations, be fair to employees, customers, suppliers, repay debts in time, and give a competitive return to shareholders. Charity and philantropy should be at the discretion of the company. Many companies in afact in past years have focused on employees and the local communities they are with, and on causes which give a good name to the company. However the law now exists and companies have to plan on spending a government determined part of the profits each year on csr.

Many companies resent the compulsion to spend a given amount and on causes that may not be of their choosing. Obviously they will try to get mileage out of the spending, for the company. Others aim at building local goodwill in their primary licatons. Any company required to spend its profits in this way will bring the efficiency norms of their business to get maximum outcomes from their outlays.

Boards are expected to adopt the CSR policy drafted by a Board Committee. In family controlled businesses, these committees are likely to represent the views and interests of the family. Even in other companiess, the principal shareholders will aim to determine the policy. Other Board members may play a passive role in determining the purpose, implementation agency, monitoring and evaluation. The Policy has to state who are the target populations for the proposed CSR activity, and what it will bw. Some companies

might appoint consultants to help define the tasks and monitor the implementation.

There are many ways of organizing the csr expenditure. The company might earmark some of its people for the purpose. In some, csr activity may be a way of training new recruits to the Indian reality by exposing them to these causes. Some companies even detach experienced managers to the activity for a few months or years. Many others might see this activity as a diversion from their basic business and will hire outside agencies particularly for implementation.

In many instances, particularly where the company is related to to others with common ownership, all of them might team up to have a single common agency of their own for the csr activity, its conduct and supervision of the implementation.

But a well-run company will be loath to allow its hard earned money be wasted. It will decide on its objectives and target beneficiary populations, set up a management information system to monitor achievements in relation to targets, identify constraints, and conceptualize how its experience could be replicated by others in India.

Company Annual Reports that are now being released for the first year after the csr provision was inserted in the Companies Act. They have to make the first annual report on their CSR activity.

The csr expenditure doe not stop at the 2% of prodits specified in the Act. Companies have to spend on manpower to ensure that the implementation by a partner ngo or by its own CSR department, are actually doing the job well.

Foreign companies have another problem when they engage ngo's to do the job. Present FCRA rules require that the recipient must be registered under FCRA. This is time consuming (may be three years). A foreign company has to wait to engage the implementing agency. This puts constraints on incurring csr expenditure until it sets up its own implementation department.

TATA companies have followed the practice of all their companies pooling their csr spending. Many years before the recent legislation, TATA companies were working to a set target of expenditure by each company.The money was given to TATA Trusts. This has made TATA the most significant on csr activity in India. Also, these trusts are very professionally managed and have the bank of past experiences in deciding how to select partners, beneficiaries, effective ways of execution, and monitoring and evaluating the achievements without interference.

An issue that will hound companies is the question of ethical soundness of the ngo and of the company. For example, can a company's donations be used for rehabilitating retired terrorists or their families? If the company or ngo is engaged in activities said to be against national interests, should it be made a partner?

Some highly principled ngos (and donor companies) will conduct diligence on potential donor companies. Thus there are ngos that will not accept money from the aerated soft drinks producers because of their adverse effects on child health. Others will not go near Monsanto because of their connection with genetically modified foods against which there is an agitation in india. They might refuse donations from companies that have some rumors or

charges against them. Similarly they might avoid environmentally polluting companies.

There are of course many NGO's who do not care about the funding sources and their reputations as long as the money is available.

There is also the question of compliance and audits. Well run companies do not want to see their money wasted. They will set up a strong internal audit system and help the ngo to keep proper record of expenditures. Donor companies must also ensure that their ngo partners treat their employees in a civilized way, ensure the integrity of their work, etc. This is another cost that the companies have to bear in addition to CSR spends.

The very rich entrepreneurs like Bill Gates, Tim Cook Azim Premji, Warren Buffet, among others, have applied the minds that built their colossal businesses to philanthropy. Many companies have found (TATA, Wipro, Shiv Nadar, Infoys) that good philanthropy also improves the corporate image and improves share values.

Compulsory CSR is here to stay. Companies must prepare themselves to do it well.

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