



COVID INITIATIVES UNDER CSR

On 11th March 2020, the World Health Organization (WHO) declared the Novel Coronavirus Disease (COVID-19) outbreak as a pandemic. Pursuant to which, Government of India (GOI) invoked powers under the Epidemic Diseases Act, 1897 and declared COVID-19 a 'notified disaster' under the Disaster Management Act 2005. On 24th March 2020, the Ministry of Home Affairs (MHA) issued guidelines to be followed across the country including Covid protocols.

On 23rd March, 2020 the Ministry of Corporate affairs (MCA) issued a clarification that spending of CSR funds for COVID-19 is an eligible Corporate Social Responsibility (CSR) activity. It further clarified, funds may be spent for various activities related to COVID-19 under Item nos. (i) and (xii) of Schedule VII relating to promotion of health care, including preventive health care and sanitation, and disaster management. It also stated, items in Schedule VII are broad-based and maybe interpreted liberally for this purpose.

Thereafter, on 10th April 2020, MCA gave clarifications in the form of FAQs, clarifying that,

- Contribution made to 'PM CARES Fund' shall qualify as CSR expenditure.



- Contribution to 'Chief Minister's Relief Fund' or 'State Relief Fund for COVID-19' shall not qualify as admissible CSR expenditure, as its not included in Schedule VII of the Companies Act, 2013 ("the Act").
- Contribution made to State Disaster Management Authority shall qualify as CSR expenditure under Item No (xii) of Schedule VII of the Act.
- Funds may be spent for various activities related to COVID-19 under Items Nos.(i) and (xii) of Schedule VII of the Act.
- Payment of salary / wages to employees and workers during the lockdown period is a moral obligation of the employers. Hence, such payment shall not qualify as an admissible CSR expenditure.
- Ex-gratia payment made to temporary / casual workers / daily wage workers over and above the disbursement of wages, specifically for the purpose of fighting COVID-19, shall be admissible towards CSR expenditure as a onetime exception, provided there is an explicit declaration to that effect by the Board of the Company, which is duly certified by the statutory auditor.

Subsequently, with a specific reference to Covid-19, substantial amendments were made to the CSR provisions. The government clarified in the Companies (CSR Policy) Rules, 2014, that CSR will include the activities undertaken by a Company engaged in research and development of new vaccines, drugs and medical devices related to COVID-19 in its normal course of business for the financial years 2020-21, 2021-22, 2022-23.

Further, the Circular dated 22nd April 2021 states that "spending of CSR funds for setting up makeshift hospitals and temporary COVID Care facilities is an eligible CSR activity". This was followed by a Circular dated 5th May 2021 stating that "spending of CSR funds for creating health infrastructure for COVID care, establishment of medical oxygen generation and storage plants, manufacturing and supply of oxygen concentrators, ventilators, cylinders and other medical equipment for countering COVIS-19 or such similar activities are eligible CSR activities." Reference is also drawn to Item No. (ix) of Schedule VII of the Act. The Circular allows companies, including government companies to undertake CSR activities directly by themselves or in collaboration with other companies subject to (CSR Policy) Rules, 2014.

Recently, MCA issued a notification dated 30th July 2021 holding that "spending of CSR funds for COVID-19 vaccination for persons, other than employees and their families is an eligible CSR activity".



Thus, CSR can be used by Companies in all possible ways to join the efforts of the Government and the society in its fight to protect the people from this pandemic causing unprecedented disruptive, debilitating difficulties in the day-to-day life of people.

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