



CSR In India: The Governing Policy Framework and Its Consequent Corporate Spending and Composition

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INTRODUCTION:

Over the past few years CSR, as a concept, has been the focus of many deliberations and research. It has grown in importance both academically as well as in the business sense. It captures a spectrum of values and criteria for measuring a company's contribution to social development. As the term "CSR" is used continually, many complementary and overlapping concepts, such as corporate citizenship, business ethics, stakeholder management and sustainability, have emerged. These extensive ranges of synonymously used terms indicate that multiple perspectives and by those in facilitating roles such as the corporate sector, government agencies, academics and the public sector.

A widely cited definition of CSR in the business and social context has been given by the European Union (EU). It describes CSR as "the concept that an enterprise is accountable for its impact on all relevant stakeholders. It is the continuing commitment by business to behave fairly and responsibly, and contribute to economic development while improving the quality of life of the work force and their families as well as of the local community and society at large"

In other words, CSR refers to ensuring the success of the business by inclusion of social and environmental considerations into a company's operations. It means satisfying your shareholders' and customers' demands while also managing the expectation of other stakeholders such as employees, suppliers and the community at large. It also means contributing positively to society and managing your organization's environmental impact.

Hence, CSR is a contribution to sustainable development, implying the way a company balances its economic, environmental and social objectives while addressing stakeholder expectations and enhancing shareholder value. CSR not only includes the activities that a company undertakes in order to utilize their profit to enable social and environmental development, but also includes the methods that a company employs in

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order to earn these profits including socially responsible investments, and transparency to various stakeholders among others. Realizing the importance and the long term benefit of being socially responsible many companies have incorporated socially responsible business practices. The basic objective of CSR is to maximize the company's overall impact on the society and stakeholders while considering environment and overall sustainability.

OBJECTIVE:

The study paper is directed towards fulfilling following objectives.

1. To study the regulatory policy framework governing Corporate Social Responsibility (CSR) activities in India.
2. To study the Indian Corporate spending and composition, of their CSR activities, just after CSR becoming legally mandatory.

RESEARCH METHODOLOGY:

A comprehensive study of secondary resources through websites and policy papers of Ministry of Corporate Affairs, PHD Chamber of Commerce, Earnest and Young, PwC and other CSR related sources are carried out for extracting the policy framework governing CSR in India, for fulfilling study objective.

A sample of 50 companies comprising Nifty, as on 30.June.2014, just after CSR becoming legally mandatory on 1.April.2014, are taken with their three years Profit After Tax (PAT) data preceding 2013-14 and their CSR spending on 2013-14, from their websites and annual reports, for analysing their CSR composition and CSR spending pattern.

A comparison is carried out between mandatory legal CSR framework (CSR theory) and actual CSR spending by Nifty 50 companies just afterwards (CSR practice).

REGULATORY CSR POLICY FRAMEWORK IN INDIA:

The corporate in Developing countries over period has realised that their competitive advantage and capital raising capability depends on their following global standards, through just by good citizenry operations or on extreme end casting an impact on community and long term sustainability.

The CSR activities comprises philanthropic, legal, ethical, corporate, environmental and economic responsibility. The CSR can also be synonymous with People, Planet and Profit, also known as triple bottom line. The Corporate India CSR operations comprises impacting the culture, customers, stakeholders, environment and social aspects of their business environment. After independence the Indian corporate focussed on social, women empowerment and rural development activities as part of their community impacting activities. But in the last decade, Indian Corporate have

shifted their CSR activities towards nation building, they are aligning their specific need based activities with national priorities like public health, education, livelihood, water conservation and natural resources development as there has not been a coherent policy to direct their CSR activities.

The government has persuaded the Indian Corporate to direct their CSR activities towards social and development objective in order to strengthen their business interests.

The first official directive regarding directing and monitoring the CSR activities came from Department of Public Enterprise (DPE), Ministry of Heavy Industries and Public Enterprise for Centre Public Sector Enterprise as “Guidelines for Corporate Social Responsibility and Sustainability for Central Public Sector Enterprise”, according to it every year, with the approval of Board of Director a budgetary allocation for CSR and Sustainability activities is required. The Budgetary allocation for CSR/Sustainability is dependent upon Profit After Tax for previous year, as per the following guidelines:

PAT of CPSE in the previous year	Range of Budgetary Allocation for CSR and Sustainability activities (as % of PAT in previous year)
Less than INR 100 crore	3% - 5%
INR 100 crore to INR 500 crore	2% - 3%
INR 500 crore and above	1% - 2%

These guidelines became effective from 1.April.2003, these are an improvement upon earlier same guidelines issued on 1.April.2010, the earlier one emphasised external stakeholders but newer one emphasises internal stakeholders particularly employee as well.

The Ministry of Corporate Affairs had further formulated nine National Voluntary Guidelines (NVG) on Social, Economical and Environmental responsibilities of business, which acts as public and peer pressure on companies which fails to comply. These nine NVGs acts as aspiration for companies to incorporate it in their business policies to cast an impact on their various stakeholders including society and environment. Thus the CSR is evolving into definitive policy framework to engage corporate in responsible business behaviour through their business activities towards society and environment. The nine NVGs are as follows:

The nine principles of National Voluntary Guidelines are:

Principle 1: Businesses should conduct and govern themselves with ethics, transparency and accountability.

Principle 2: Businesses should provide goods and services that are safe and contribute to sustainability throughout their life cycle.

Principle 3: Businesses should promote the wellbeing of all employees.

Principle 4: Businesses should respect the interests of, and be responsive toward all stakeholders, especially those who are disadvantaged, vulnerable and marginalized.

Principle 5: Businesses should respect and promote human rights.

Principle 6: Business should respect, protect, and make efforts to restore the environment.

Principle 7: Businesses, when engaged in influencing public and regulatory policy, should do so in responsible manner.

Principle 8: Businesses should support inclusive growth and equitable development.

Principle 9: Businesses should engage with and provide value to their customers and consumers in a responsible manner.

These directives by Department of Public Enterprise, on spending a specific portion of previous year PAT on CSR activities by Central Public Sector Enterprise and further Nine National Voluntary Guidelines by Ministry of Corporate Affairs, applicable to both public and private sector entities of any size, has set the motion for streamlining the CSR activities of business organisations for responsible behaviour towards social, environmental and developmental need so that a balance between business, profit needs and social needs can be realised for sustainable development of business.. These moves so far has widely been accepted by corporate, government, customers, public, media and all the stakeholders, but still the adherence to CSR activities by corporate were limited.

A mandatory policy framework become necessary to include all the public and private business entities, particularly the listed companies in stock exchanges with market capitalisation to behave in socially responsible way; so that not only following the CSR directives, but monitoring its implementation and its compulsory transparent reporting can be capsulated for sustainable equilibrium between business and social needs.

Companies Bill, 2012 and CSR:

With a view to provide a framework for companies (private and public) to implement need-based CSR activities, the Government of India has included CSR-related provisions in the Companies Bill, 2012. The Clause 135 of the Companies Bill 2012 aims at motivating companies to spend 2% of Profit After Tax (PAT) on CSR. Though spending 2% of the PAT is not mandatory but Clause 135 of the proposed Companies Bill casts a duty on the Board to specify reasons for not spending the specified amount on CSR.

The Clause 135 will be applicable to all companies that have either of the following:
Net worth of INR 500 crores or more,
Turnover of INR 1000 crores or more,
Net Profit of 5 crores or more.

An average of last three financial years PAT will be considered for calculating the 2% for CSR. The Bill mandates companies to form a board-level CSR Committee comprising three or more directors with at least one independent director. The composition of the CSR Committee has to be disclosed in the annual board of director's report.

The CSR Committee will be responsible for formulating and recommending a CSR policy and implementation plan. The Committee will also be responsible for regular monitoring of CSR activities. Company's board will be responsible for approving and disclosing CSR Policy in the annual Director's Report and on company's website. The Board will also be responsible for ensuring implementation of CSR activities according to the Policy. The annual Director's Report has to specify reasons In case the specific amount (2% of PAT) has not been utilized adequately.

Schedule VII of Companies Bill 2012 specifies activities/ thematic areas that are likely to be considered for undertaking CSR activities. It is likely that activities proposed in Schedule VII will increase once the CSR rules are finalized, Furthermore, the rules will also provide some flexibility to the CSR committee to decide on the thematic areas and activities. The Ministry of Corporate Affairs have established the Indian Institute of Corporate Affairs to create an enabling environment and capacity development on various issues related to corporate sector including CSR.

There are several queries and concerns of companies related to the applicability, implementation and likely impact of the Clause 135 of the proposed Companies Bill, 2012. The Ministry of Corporate Affairs and the Indian Institute of Corporate Affairs have undertaken series of deliberations with companies in order to understand their concerns and draft rules for effective implementation of Clause 135. In anticipation of the change, companies now need to put in place some compliance procedures and introduce an adequate governance framework. To begin with they need to establish a CSR committee, which in turn will have to define a CSR policy and identify projects based on the proposed thematic areas. Projects that have a high social impact and are measurably addressing a social development issue will have to be undertaken.

In order to do this, companies will have to identify capable implementation partners based on a sound due diligence process and determine accountability of an organization before engaging.

Nifty 50 companies, CSR spending and composition:

This paper studies the CSR spending and composition pattern for Nifty 50 companies for year 2013-14, just after CSR became mandatory rule under Indian Companies Act, 2012, Clause 135, from 1.April.2014. The previous three years 2011-12, 2012-13 and 2013-14 PAT are taken for all Nifty 50 (As on 30.June.2014) companies, their Average PAT is calculated and its 2% as CSR spending stipulated and actual is calculated to access the CSR spending patterns. Afterwards CSR composition of Nifty 50 companies are assessed.

Table 1: Deficit/Surplus of CSR Spending by Nifty 50 Companies (Rupees in crore)									
S. No.	Company Name	2013-14	2012-13	2011-12	Total Profit	Average Profit	2% of Average Profit	CSR Spending (2013-14)	Defecit/ Surplus
1	ACC	1227	1451	1540	4218	1406	28.12	22.76	- 5.36
2	Ambuja Cement	1514	1902	1703	5119	1706	34.13	52.57	18.44
3	Asian Paints	1703	1516	1363	4582	1527	30.55	3.7	- 26.85
4	Axis Bank	6218	5179	4242	15639	5213	104.26	52.4	- 51.86
5	Bajaj Auto	4632	4266	3980	12878	4293	85.85	26.75	- 59.1
6	Bank of Baroda	4541	4481	5007	14029	4676	93.53	14.98	- 78.55
7	Bharat Heavy Electrical	5949	2564	1884	10397	3466	69.31	42	- 27.31
8	Bharat Petroleum	5949	2564	1884	10397	3466	69.31	34.38	- 34.93
9	Bharti Airtel	8377	6455	6956	21788	7263	145.25	40.4	- 104.85
10	Cairn India	7775	6745	48	14568	4856	97.12	47.6	- 49.52
11	Cipla	1818	2012	1421	5251	1750	35.01	9.98	- 25.03
12	Coal India	15420	10338	8599	34357	11452	229.05	141.7	- 87.35
13	DLF	538	693	1508	2739	913	18.26	36	17.74
14	Dr Reddy Lab.	2454	1753	1259	5466	1822	36.44	19.86	- 16.58
15	GAIL	6402	6058	5340	17800	5933	118.67	91	- 27.67
16	Grasim Industries	985	1529	1542	4056	1352	2704	12.7	- 14.34
17	HCL Tech	2060	4451	2360	8871	2957	59.14	2.8	- 56.34
18	HDFC Bank	8478	6726	5167	20371	6790	135.81	70.36	- 65.85

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19	Hero Motocorp	2867	2567	2865	8299	2766	55.33	1.38	- 53.95
20	Hindalco	1685	2047	2687	6419	2140	42.79	29.79	- 13
21	Hindustan Unilever	5028	4958	3469	13455	4485	89.7	89.7	0
22	Housing Dev. Fin. Corp.	7440	6573	5666	19679	6560	131.19	0.46	- 130.73
23	ITC	12659	10684	8898	32241	10747	214.94	107.94	107
24	ICICI Bank	9810	8325	6465	24600	8200	164	164	0
25	IDFC	2358	2468	2201	7027	2342	46.85	29	- 17.85
26	IndusInd Bank	1408	1061	803	3272	1091	21.81	12.69	- 9.12
27	Infosys	14002	12357	11580	37939	12646	252.93	9	- 243.93
28	Jindal Steel & Power	1600	2229	2843	6672	2224	44.48	52	7.52
29	Kotak Mahindra Bank	1503	1361	1085	3949	1316	26.33	3.6	- 22.73
30	L&T	7268	6711	6310	20289	6763	135.26	77	- 58.26
31	Lupin	3139	1724	872	5735	1912	38.23	14.5	- 23.73
32	M&M	4369	4447	3606	12422	4141	82.81	33.50	- 50.12
33	Maruti Suzuki	3659	2991	2146	8796	2932	58.64	23	- 35.64
34	NMDC	9760	9464	10760	29984	9995	199.89	129	- 73.04
35	NTPC	13917	16549	12338	42804	14268	285.36	128	- 156.96
36	ONGC	32182	30597	36652	99431	33144	662.87	341	- 321.62
37	Power Grid Corp	6263	5644	4616	16523	5508	110.15	22	- 88.15
38	PNB	3343	4748	4884	12975	4325	86.5	294	207.25
39	Reliance Industry	27818	26284	25750	79852	26617	532.35	712	179.93
40	Sesa Sterlite	- 1072	57	2421	1406	469	9.37	170	160.63
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41	SBI	10891	14105	11707	36703	12234	244.69	141	- 103.64
42	Sun Pharma	- 2801	663	1726	- 412	- 137	- 2.75	5.04	7.79
43	TCS	23544	15703	13366	52613	17538	350.75	90	- 260.75
44	Tata Motors	- 1026	175	1341	490	163	3.27	17	14.06
45	Tata Power	1491	1703	1683	4877	1626	32.51	15	- 17.25
46	Tata Steel	9714	7837	9857	27408	9136	182.72	212	29.28
47	Tech Mahindra	32378	817	566	33761	1540	30.81	40.28	9.47
48	Ultra Tech Cement	2776	3825	3393	9994	3331	66.63	54	- 12.53
49	Wipro	9608	7205	5919	22732	7577	151.55	16	- 135.55
50	Zee Ent.	1175	952	720	2847	949	18.98	4.4	- 14.58
					Total:	2,89389	5787.79	3756.78	- 2030.05

Findings of the study:

The study consists of CSR spending of 11 Public Sector Undertakings and 39 Private Limited Companies. The Nifty 50 companies has earned an average total Profit After Tax of Rs. Two Lakh Eighty Nine Thousand crores Rupees (Round off value) for three years 2011-12, 2012-13 and 2013-14, the 2% of it is Five Thousand Eight Hundred crore Rupees (Round off value), but only 65% of it Three Thousand Eight Hundred crore Rupees were actually spend on CSR activities, creating a vast gap of around Twenty Thousand crore Rupees. It states that CSR implementation by Indian Corporate is still inadequate and Indian corporate responsible business behaviour towards society and its development is 'Moderate'.

The study also finds that Reliance Industries (Rs. 712 crore), Punjab National Bank (PNB)- Rs. 294 crores and Sesa Sterlite (Rs. 170 crores) are top spenders on CSR activities in absolute amount term as well as in spending more than 2% of their average three years PAT. The Hindustan Unilever and ICICI Bank have spend all their stipulated CSR amount. The ONGC though has spend high amount (Rs. 341 crores) on CSR activities in absolute terms, but still it is just half of stipulated CSR spending. The Tata Group – Tata Motors and Tata Steel have combined spending on CSR of Rupees 230 crores- which marks their distinct conventional responsible business behaviour.

CSR Spend (% of Average Profit)	Sample Companies
Less than or equal to 1%	23
Between 1% and 2%	15
Exceeding 2%	12
Total:	50

Findings:

The Table-2, interpreted through Table-1, indicates that only 12 Nifty 50 companies has more than 2% of their average three years PAT spending on CSR, while 15 companies have CSR spending between 1% and 2% of their three years average PAT and majority of 23 companies have less than 1% of their stipulated spending on CSR. The notable observation though is all the Nifty 50 companies are spending some amounts on CSR activities, and are actively engaged into it.

Ownership Structure	CSR Spend (Amount in Rupees Crore)	Percent of Average Profit
PSUs	1,377	1.27
Private	2,379	1.31

Findings:

The Table-3, interpreted through Table-1, indicates that Private companies have spend a little less than double amount on CSR activities (Rs. 2,400 crores) than Public Sector Enterprise (Rs. 1,400 crores); both in absolute terms and percentage of stipulated CSR amounts; pointing that Private companies have stronger financial muscle for contribution in CSR activities and need for their active and intense involvement in CSR.

Ownership Structure	CSR Spend		
	Less than Equal to 1%	1% - 2%	More than Equal to 2%
PSU	04	06	01
Private	19	09	11

Findings:

The Table-4, also interpreted through Table-1, points that out of 39 Private Companies of Nifty 50; 20 companies have more than 1% of their average three years PAT spending on CSR, constituting 51 % of them whereas 7 PSUs out of total 11 PSUs of Nifty 50 are contributing more than 1% of their average three years PAT, on CSR, constituting 63% of them. It means PSUs are more active in CSR but financial muscle of Private Companies combined together is stronger to contribute in CSR.

Table 5: Companies Spending on Different CSR Activities		
S.No.	CSR Activity	No. Of Sample Companies
1	Environment Sustainability	20
2	Women Empowerment and Gender Equality	11
3	Education (including Financial Literacy)	44
4	Health, Hygiene and Sanitation	44
5	Rural Development	12
6	Community and Infrastructure Development	23
7	Water Conservation	04
8	Skill Development	10
9	Disaster Relief	07
10	Cultural Development	06

Findings:

The Table-5, which categories the CSR activities of Nifty 50 companies, states that Education and Health, Hygiene and Sanitation constitutes the major CSR activity followed by Community, Infrastructure Development and Environment Sustainability. The women empowerment, Skill Development and Rural Development are also emphasised CSR activities. Disaster Relief and Cultural Development are least pursued CSR activities.

CONCLUSION:

The PSUs are intensely involved in CSR activities than Private Companies but as Private Companies are larger chunk of stock listed companies in India, their cumulative financial muscle is much stronger than PSUs to contribute in CSR activities and still a substantial potential exist for Private Companies to increase their CSR contributions. To fill this unrealised financial potential of Private Companies and also of PSUs for CSR and for ensuring their responsible business behaviour to cast a significant impact on all stakeholders, the enactment of Companies Bill 2012, clause 135, for mandatory

spending 2% of their average three years Profit After Tax (PAT) on CSR is rational and necessary otherwise the gap cannot be filled up.

The Department of Public Enterprise Guidelines for Central Public Sector Enterprise and Nine principles of National Voluntary Guidelines by Ministry of Corporate Affairs for CSR and Sustainable activities along with compulsory reporting of 'CSR spending, implementation and monitoring' are basic policy framework for guiding and aligning the CSR activities for stock listed all Indian Companies.

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