CHAPTER 17 · COMPLIANCE MANUAL · 2024 EDITION

Corporate Social Responsibility

*This chapter is an extract from **The RST Compliance Manual**, a regulator-mapped reference for Indian business entities curated by the partners of R S T & Co.*

Corporate social responsibility (**CSR**) benefits the society at large and the company in many ways - brand recognition, reputation, increased sales and customer loyalty, better financial performance, greater ability to attract talent and retain staff, organisational growth and easier access to capital.

On August 29, 2013, CSR was legislated by introducing section 135 in the Companies Act, 2013 which was made applicable from the financial year 2014-15.

The question that has always been litigated is whether expenditure on CSR activity is eligible for tax deduction under the Income Tax Act, 1961.

What is Corporate Social Responsibility under the Companies Act, 2013?

CSR provisions are currently applicable to companies with -

an annual turnover of Rs. 1,000 crore and more, or

a net worth of Rs. 500 crore and more, or

a net profit of Rs. 5 crore and more.

Qualifying company is mandated to **spend 2% of the average profits of the last three years** on CSR activities. CSR includes,

Projects or programmes relating to activities specified in schedule VII to the Companies Act;

Projects or programmes relating to activities undertaken by the board of directors of a company in pursuance of recommendations of CSR committee as per declared CSR policy, subject to the condition that the policy covers subjects enumerated in schedule VII of the Companies Act.

There are separate regulations provided for CSR committee, functions to be formed by the committee, functions of the board, ways to carry on the CSR activities and disclosure of the CSR expenditure in the annual accounts.

Tax deductibility for CSR expenditure:

As CSR expenses have a philanthropic nature and are not necessarily a business expense, the parliament legislated that CSR expenses would not be eligible for deduction u/s 37 (general deductions) of the IT Act.

Explanation 2 to section 37(1) was inserted in 2014 which provided that any expenditure incurred by an assessee on the activities relating to CSR referred to in section 135 of Companies Act 2013, will not be deemed to be an expenditure incurred by the assessee for the purpose of business or profession and will not be allowed as deduction u/s 37(1) of the IT Act.

But the CSR expenditure which is of the nature described in section 30 to section 36 of the IT Act will be allowed as deduction under those sections subject to fulfillment of conditions specified.

Whether deduction u/s 80G is allowable for CSR contribution?

After the 2014 amendment, some tax authorities have disallowed the expenditure u/s 37(1) and have also disputed the claim of deduction u/s 80G for eligible donations, qualifying for CSR.

The tax authorities contended that the intention of the legislature was never to allow deduction for CSR expenditure, else it would result in subsidizing the CSR expenditure by one-third amount. Furthermore, CSR expenditure is not voluntary, but mandatory in nature.

The Bangalore Tribunal, in some of the cases allowed the deduction u/s 80G and held that taxpayer cannot be denied the benefit of claim under Chapter VI-A, which is considered for computing total taxable income. If taxpayer is denied this benefit, merely because the payment forms part of CSR, it would lead to double disallowance, which is not the intention of legislature.

The Tribunal held that there are two specific exceptions provided u/s 80G (Bharat Kosh and Clean Ganga Fund) to disallow sum spent by the taxpayer in pursuance of CSR. Thus, other contributions made u/s 135(5) of the Companies Act would be eligible for deduction u/s 80G subject to taxpayer satisfying the conditions prescribed for the deduction.

***End of Chapter.** For the complete Compliance Manual, additional chapters, or a tailored briefing for your finance and compliance teams, contact **info@rstandco.co.in**.*