Source : www.thehindu.com Date : 2019-08-17

MAKING CSR WORK: ON COMPANIES ACT AMENDMENTS

Relevant for: Ethics | Topic: Corporate governance

It was first encouraged as a voluntary contribution by business; six years ago it evolved into a co-option of the corporate sector to promote inclusiveness in society and now, corporate social responsibility or CSR has become an imposition on India Inc. Key amendments to the relevant sections of the Companies Act in the last session of Parliament have now made non-compliance with CSR norms a jailable offence for key officers of the company, apart from hefty fines up to 25 lakh on the company and 5 lakh on the officer in default. Finance Minister Nirmala Sitharaman is said to have assured representatives of India Inc. when they met her last week that this amendment will be reviewed. Yet, it is curious that the government rushed through with amendments on the CSR law even as a committee constituted by it was finalising its report on the same subject. As it happened, the committee, headed by the Corporate Affairs Secretary submitted its report on August 13, well after Parliament had passed the amendments. On the specific issue of penalties, the committee has proposed that non-compliance be de-criminalised and made a civil offence. “CSR is a means to partner corporates for social development and such penal provisions are not in harmony with the spirit of CSR,” the committee’s report says and rightly so. CSR should not be treated as another tax on businesses.

Every company with a net worth of 500 crore or turnover of 1,000 crore or net profit of 5 crore should spend 2% of the average profits it made over the previous three years on social development. The experience since this provision was operationalised in 2013 has been mixed. Filings with the Ministry of Corporate Affairs show that in 2017-18, only a little over half of those liable to spend on CSR have filed reports on their activity to the government. The other half either did not comply or simply failed to file. The average CSR spend by private companies was just 95 lakh compared to 9.40 crore for public sector units. These are early days yet, and compliance will improve as corporates imbibe CSR culture fully. The committee’s suggestion to offer a tax break for expenses on CSR makes sense as it may incentivise companies to spend. It has also recommended that unspent CSR funds be transferred to an escrow account within 30 days of the end of the financial year. It should be recognised that CSR is not the main business of a company and in these challenging times they would rightly be focusing their energies on the business rather than on social spending. The government should be careful to not micromanage and tie down businesses with rules and regulations that impose a heavy compliance burden. Else it might end up with the opposite of what it intends — to rope in corporates as citizens to promote social inclusion.

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