

Contents

	PAGE
<i>Acknowledgement</i>	I-5
<i>Chapter-heads</i>	I-7
<i>Abbreviations</i>	I-33

1

BACKGROUND, TEXT, APPLICABILITY AND ACTION REQUIRED UPON APPLICABILITY

1.1	Background	1
	1.1-1 Amendments to Rules	1
	1.1-2 Notifications	2
	1.1-3 Circulars and clarifications	2
1.2	Text	3
	1.2-1 Schedule VII	3
	1.2-2 CSR Rules	3
	1.2-3 Notifications	3
	1.2-4 Circulars	3
1.3	Objective and spirit of the act	3
1.4	Situations in which section 135 is applicable to a company	4
	1.4-1 Situation 1: Applicability to an Indian company when conditions of section 135(1) are satisfied	4
	1.4-2 Situation 2: Applicability to a foreign company	4
	1.4-3 Situation 3: Applicability of CSR provisions even when conditions of section 135(1) are not satisfied	5
1.5	Actions required upon applicability of CSR provisions	6
	1.5-1 CSR committee	6

	PAGE	
1.5-2	Action by CSR committee	6
1.5-3	Action by board of directors	7
1.5-4	Action by CFO	9
1.5-5	Unspent amount in respect of ongoing project	9

2

APPLICABILITY TO 'EVERY COMPANY' FULFILLING ONE OF THE CRITERIA IN SECTION 135

2.1	Section 135 applies to "every company"	11
2.2	Section 135 is not applicable to "non companies"	12
2.3	Small companies - Whether section 135 applies?	13
2.4	Company which has not completed three financial years since incorporation could be covered by CSR provisions	13
2.5	A company under the Insolvency and Bankruptcy Code, 2016 (IBC)	14

3

APPLICABILITY OF SECTION 135 TO HOLDING COMPANY OR SUBSIDIARY COMPANY OF A COMPANY TO WHICH SECTION 135(1) IS APPLICABLE

3.1	Background	15
3.2	Text of rule 3(1)	15
3.3	Definitions of holding company and subsidiary company	16
3.4	Holding company/subsidiary company itself should satisfy criterion in section 135(1)	16
3.5	Applicability to holding company/subsidiary company when section 135(1) ceases to apply to it	17
3.6	CSR provisions may not apply to a subsidiary or holding company of a foreign company	18

4

CSR - NET WORTH CRITERION

4.1	Background	19
4.2	Definition of "net worth"	19

	PAGE	
4.3	Illustration	20
4.4	Relevance of net worth criterion	20
4.5	The net worth has to be reckoned 'as per the audited balance sheet'	20
4.6	Components of net worth	21
4.6-1	Paid-up share capital	21
4.6-2	Securities premium account	21
4.6-3	Accumulated losses	21
4.6-4	Reserves upon amalgamation	22
4.6-5	Computation of net worth for a foreign company	24
4.6-6	Computation of net worth of a section 8 company	24

5

NET PROFIT CRITERION (PROFITABILITY)

5.1	Background	25
5.2	Relevance of profitability criterion	25
5.3	Meaning of 'net profit'	26
5.3-1	Net profit is as per financial statements	26
5.3-2	Net profit as per audited statements	27
5.3-3	Whether profit should be as per consolidated accounts or standalone accounts?	27
5.3-4	Net profits have to be calculated in accordance with section 198	28
5.3-5	Net profit should be computed in the same manner as for managerial remuneration under section 197	28
5.3-6	Gross profit is not relevant	28
5.3-7	Some items which cannot be included in the computation of net profit are	29
5.3-8	Some items of expenditure/losses which cannot be deducted in computation of net profits	29
5.3-9	Carry forward losses are to be deducted in computing net profits	29
5.3-10	CSR expenditure - Whether deductible in computing net profits under section 198?	30

	PAGE
5.4 Profits arising from any overseas branch are to be excluded in the computation of net profit [rule 2(1)(h)(i)]	32
5.4-1 Meaning of the word “branch”	32
5.4-2 Foreign subsidiaries	32
5.4-3 Profits of the branch are “pre-tax”	33
5.4-4 Profits of business outside India without setting up a branch	33
5.5 Dividend from certain other companies are to be excluded in the computation of net profits [rule 2(1)(h)(ii)]	33
5.5-1 Payer company should be complying with section 135	33
5.5-2 Any dividend is excluded	34
5.6 Net profit after exclusions for branch profits/dividends should exceed Rs. 5 Crores	35
5.7 Net profit of a section 8 company	35
5.8 Computation of net profit for insurance companies, banking companies, electricity companies, etc.	35
5.9 Net profit of a foreign company	36

6

TURNOVER CRITERION

6.1 Background	37
6.2 Meaning of ‘turnover’	37
6.2-1 Definition	37
6.2-2 Turnover is based on gross amount of revenue “recognized in the profit and loss account”	38
6.2-3 Turnover is ‘gross’ amount of revenue and not ‘net’ amount of revenue	38
6.2-4 Relevance of ‘turnover’ criterion	38
6.2-5 All credits in profit and loss account do not become turnover for the purposes of the definition	38
6.2-6 Turnover to be based on audited accounts	39
6.2-7 Turnover is based on revenue from “sale, supply or distribution” of goods	39

	PAGE
6.2-8 Meaning of “goods”	39
6.2-9 Meaning of “services”	41
6.3 Turnover of a foreign company	42
6.4 Turnover of a section 8 company	42

7

FINANCIAL YEAR - MEANING

7.1 Background	43
7.2 Definition of “financial year”	43

8

CSR COMMITTEE

8.1 Background	45
8.2 Definition of “CSR Committee”	45
8.3 Formation of CSR Committee is mandatory	45
8.4 Company undertaking CSR activity voluntarily	45
8.5 No specified time frame for formation	45
8.6 Each collaborating company has to form its own individual CSR Committee	46
8.7 Composition/strength of CSR Committee	46
8.7-1 Table showing constitution of CSR Committee vis-a-vis different types of companies	46
8.7-2 Meaning of “independent director”	48
8.7-3 CSR Committee need not have a woman director	50
8.7-4 Chairman of CSR Committee	50
8.7-5 Changes in CSR Committee	50
8.8 Quorum for meetings	50
8.9 Tenure of CSR Committee	50
8.10 Decisions by the CSR Committee	50
8.11 Constitution of CSR Committee when (a) CSR provisions are applicable only on account of rule 3(2) and (b) CSR expenditure required to be incurred is less than Rs. 50 Lakhs	50

	PAGE
8.11-1 Exception regarding non-constitution of the CSR Committee applies in both situations where CSR liability does not exceed Rs. 50 Lakhs	52
8.12 Functions/duties of CSR Committee	52
8.12-1 Formulating the CSR policy	52
8.12-2 Formulating the annual action plan	53
8.12-3 Ascertain the amount of CSR expenditure	53
8.12-4 Making recommendations to the board of directors	53
8.12-5 Monitoring the CSR policy	53
8.12-6 Recommend to the board of directors to abandon or modify an ongoing project	54
8.12-7 Recommend to the board to alter the project outlay	54
8.12-8 Report on projects or programme undertaken in collaboration with other companies	54
8.12-9 Maintenance of proper records/minutes	55
8.12-10 Signature on directors' report	55
8.12-11 Other duties of the board of directors that could be assigned to the CSR Committee	55
8.13 Annual action plan	57
8.13-1 Timing for finalization of annual plan	57
8.13-2 Matters required in annual plan	58
8.13-3 Manner of execution of projects/programme	58
8.13-4 Recommend to the board to alter the annual plan	58
8.14 Disclosure of composition of CSR Committee	59
8.15 Penalties for defaults	59
8.16 Step plan for constituting CSR Committee	59
8.17 Specimen resolutions of CSR Committee	60
8.17-1 Constitution of CSR Committee	60
8.17-2 Reconstitution of CSR Committee	62

9

CSR POLICY

9.1 Background	64
-----------------------	----

	PAGE	
9.2	Definition of “CSR Policy”	65
9.3	Paraphrasing the definition of CSR Policy	65
9.4	Definition is exhaustive	65
9.5	Importance of CSR Policy	65
9.6	Adoption of CSR Policy is mandatory	66
9.7	Time frame within which CSR Policy is to be approved	66
9.8	Activities should be part of CSR Policy	66
9.9	Recommendation by CSR Committee to be taken into account	66
9.10	Spending has to be “in pursuance of” CSR Policy	67
9.11	Guiding principles	68
9.12	Modification of CSR Policy	68
9.13	Sequence <i>vis-à-vis</i> annual action plan	68
9.14	Activity through implementing agency	68
9.15	Disclosure of CSR Policy	68
9.16	Penalties for defaults	68
9.17	Specimen CSR Policy of listed companies	69
9.18	Step plan for formulating a CSR Policy including annual action plan	69

10

CORPORATE SOCIAL RESPONSIBILITY (CSR)

10.1	Background	73
10.2	CSR- definition	73
10.3	Definition is exhaustive	73
10.4	Role of board of directors/government	74
10.5	CSR means activities undertaken in pursuance of section 135	74
10.5-1	Activities must be relatable to Schedule VII of the CA 2013	74
10.5-2	Funding of government scheme is not envisaged under CSR	74
10.5-3	CSR activities to be “in accordance with the provisions contained in these rules”	75
10.5-4	Impermissible activities	75

	PAGE
10.6 Activity carried out in pursuance of normal course of business of the company is not covered by CSR	75
10.6-1 “Normal course of business” - Meaning	75
10.6-2 Illustrations of activities undertaken in the normal course of business	76
10.6-3 Illustrations of activities not undertaken in the normal course of business	77
10.6-4 Activity through implementing agency	78
10.6-5 Applicability to section 8 company	78
10.6-6 Any company engaged in research and development activity of new vaccine, drugs and medical devices in their normal course of business	80
10.7 Activity undertaken by the company outside India is not covered by CSR	81
10.7-1 Exceptions	81
10.7-2 Expenditure outside India in respect of activity in India	82
10.7-3 Expenditure incurred indirectly is also covered	82
10.8 Contribution of any amount directly or indirectly to any political party under section 182 of the Act is not covered by CSR	82
10.8-1 The contribution cannot be given ‘directly or indirectly’	83
10.8-2 Implementing agency having nexus with political party	84
10.9 Activity benefitting employees of the company is not covered by CSR	84
10.9-1 Employees	84
10.9-2 Meaning of “benefitting”	85
10.9-3 Some activities which could be regarded as benefitting employees	87
10.9-4 Some activities which are not benefitting employees	88
10.9-5 Composite activity for benefit of employees and others - Whether CSR?	88
10.9-6 Payment through implementing agency	89

	PAGE
10.10 Activity supported by a company on sponsorship basis for deriving marketing benefits for its products or services is not covered by CSR	89
10.10-1 Sponsorship	90
10.10-2 The activity should be carried out for deriving marketing benefits	90
10.10-3 Payment through implementing agency	91
10.11 Activity for fulfilment of statutory obligation	91
10.12 Activity contravening any law is not covered by CSR	91
10.13 CSR agreement	92
10.14 Penalties	92
10.15 Checklist for understanding the scope/meaning of CSR	92

11

BOARD OF DIRECTORS

11.1 Background	94
11.2 Functions/duties of board of directors	94
11.2-1 Approve CSR Policy	94
11.2-2 Constitute CSR Committee	94
11.2-3 Perform the functions of CSR Committee	95
11.2-4 Approve/alter annual action plan	95
11.2-5 Activities included in CSR Policy are covered by Schedule VII	95
11.2-6 Activities incurred in CSR Policy are undertaken	95
11.2-7 Required CSR Expenditure is incurred	95
11.2-8 Give preference to local areas	96
11.2-9 Decisions regarding “ongoing projects”	96
11.2-10 Decisions relating to projects other than ongoing projects	96
11.2-11 Alteration in project outlay	96
11.2-12 Administrative overheads do not exceed 5% of total CSR Expenditure	97
11.2-13 Funds disbursed are utilised for the approved purposes	97

	PAGE
11.2-14 Surplus from CSR activity	97
11.2-15 Comply with special directions, if any, given by the Central Government [section 135(8)]	97
11.2-16 Impact assessment	98
11.2-17 Website	98
11.2-18 Annual report on CSR	98
11.2-19 The board shall disclose in the directors' report	98
11.2-20 Transfer of unspent amount	99
11.3 Penalties for default	99

12

QUANTUM OF SPENDING ON CSR (2% OF AVERAGE NET PROFITS PLUS SURPLUS FROM CSR ACTIVITY)

12.1 Background	100
12.2 Company need not have completed three financial years	101
12.3 Illustration of computation of average net profits	101
12.4 Average net profits for section 135(5)	102
12.4-1 Disclosure	103
12.5 A company may voluntarily spend more	103
12.5-1 Excess spending may be set off against future obligation	103
12.5-2 MCA clarification	103
12.5-3 Disclosure	104
12.5-4 Applicability to financial year 2020-21	104
12.6 Surplus from CSR activities	105
12.6-1 Illustration	105
12.6-2 Meaning of 'surplus'	105
12.6-3 Surplus is to be ploughed back into "same" project	105
12.6-4 Disclosure	106
12.6-5 Time limit of 6 months	106
12.7 Penalties	106

13**CSR EXPENDITURE**

13.1	Background	<i>107</i>
	13.1-1 “Spend” - Meaning	<i>107</i>
	13.1-2 “Expenditure” - Meaning	<i>108</i>
13.2	Modes of incurring CSR Expenditure	<i>109</i>
13.3	Items included in CSR Expenditure	<i>109</i>
	13.3-1 Expenditure on activities covered by Schedule VII	<i>109</i>
	13.3-2 Expenditure in pursuance of CSR Policy	<i>109</i>
	13.3-3 Expenditure incurred before year end but actual payment after year end	<i>110</i>
	13.3-4 Administrative overheads	<i>110</i>
	13.3-5 Capital expenditure	<i>112</i>
	13.3-6 Contribution in kind - Whether CSR Expenditure?	<i>113</i>
	13.3-7 Salaries paid to CSR staff/volunteers - Whether CSR Expenditure?	<i>114</i>
	13.3-8 R&D expenditure to be regarded as CSR Expenditure	<i>115</i>
	13.3-9 Training outside India	<i>115</i>
	13.3-10 Expenditure for creation or acquisition of capital asset	<i>115</i>
	13.3-11 Fees payable to international organization	<i>116</i>
	13.3-12 Impact assessment cost	<i>117</i>
	13.3-13 CSR Expenditure for an Indian subsidiary of a foreign company	<i>117</i>
	13.3-14 Expenses related to transfer of capital asset	<i>117</i>
13.4	Exclusions from CSR Expenditure	<i>118</i>
	13.4-1 Expenditure on one-off events	<i>118</i>
	13.4-2 Expenditure on activities/items outside Schedule VII	<i>118</i>
	13.4-3 Spending after the end of relevant financial year	<i>118</i>
	13.4-4 Expenditure which is not in pursuance of the CSR Policy of the company	<i>118</i>

	PAGE
13.4-5 Expenditure on any activity undertaken in pursuance of the normal course of its business [rule 2(1)(d)(i)]	119
13.4-6 Expenditure on projects or programmes or activities undertaken outside India	119
13.4-7 Political party	119
13.4-8 Expenditure on any activity which is for the benefit of employees of the company or their families [rule 2(1)(d)(iv)]	119
13.4-9 Expenditure on activities supported by the companies on sponsorship basis	119
13.4-10 Expenditure on any activity undertaken pursuant to other statutory obligations [rule 2(1)(d)(vi)]	119
13.4-11 Expenditure for creation or acquisition of capital asset if the asset is not held by entities referred to in rule 7(4)	119
13.4-12 Administrative overheads exceeding 5% of total CSR Expenditure [rule 7(1)]	120
13.4-13 Contribution to corpus	120
13.4-14 Expenditure voluntarily incurred in the years before the financial year in which section 135(1) becomes applicable to a company	120
13.4-15 Expenditure incurred out of surplus arising out of the CSR activity in a preceding year [rule 7(2)]	120
13.4-16 Impact assessment cost in excess of specified limit	121
13.4-17 Contribution to a fund as specified in section 181	121
13.4-18 Mere disbursement to implementing agency	121
13.5 Mark-up retained by implementing agency	122
13.6 Disclosure	123
13.7 Penalties	123

14

IMPLEMENTATION OF CSR ACTIVITIES

14.1 Background	125
14.2 Text of rule 4	125

	PAGE
14.3 Aspects to be considered in implementation of CSR activities	126
14.4 The activities must be in accordance with Schedule VII	126
14.5 No appropriate statutory authority for approving the implementation of the CSR programmes/projects of a company	126
14.6 Mechanism for monitoring the CSR process	126
14.6-1 MCA clarification	126
14.6-2 Role of Government in compliances of CSR	127
14.7 CSR activities must be carried out in India	127
14.8 Area of implementation of CSR activities	128
14.9 International organizations	128
14.10 Manner of implementing the CSR programs and activities	128
14.10-1 Implementation of CSR activities only in project/programme mode	128
14.10-2 Change in manner of implementing CSR programme	130
14.11 Contribution to specified funds	131
14.12 Direct implementation by the company	131
14.13 Implementation through company/trust/society set up by the company	132
14.14 Implementation through company/trust/society established by Government, etc.	132
14.15 Entity established under an act of parliament or state legislature	132
14.16 Implementation through any other company/trust/society	132
14.17 Collaboration with other companies	133
14.18 Implementation may involve acquisition of a capital asset	134
14.18-1 Disclosure	134
14.19 Implementation by use of own personnel	135
14.20 Preference to local area of operation and area around it	135
14.21 Ongoing project	135
14.22 Impact assessment [rule 8(3)]	135
14.23 Penalties	135

15**PREFERENCE TO LOCAL AREA OF OPERATION
AND AREA AROUND IT**

15.1	Background	139
15.2	Preference to local area of operation and area around it	139
	15.2-1 "Preference" - Meaning and significance	140
	15.2-2 "Local area" - Meaning	143
	15.2-3 "Operates" - Meaning	144
	15.2-4 Multiple areas of operation	145
15.3	Disclosure	145
15.4	Penalties	145

16**IMPACT ASSESSMENT**

16.1	Background	146
16.2	Conditions for mandatory impact assessment [rule 8(3)(a)]	147
16.3	Impact assessment report to be placed before board	147
16.4	Purpose	148
16.5	Limit for impact assessment fees	148
	16.5-1 Actual fees - may exceed the permissible limit	148
16.6	CSR obligation should exceed Rs. 10 Crores	148
16.7	Impact assessment only for completed projects	149
16.8	Impact assessment is also required for projects implemented through implementing agency or in collaboration with other companies	149
16.9	Impact assessment by independent agency	149
16.10	No impact assessment for contribution to funds	149
16.11	Applicability <i>vis-à-vis</i> financial year 2020-21	150
16.12	Impact assessment - Whether every year for all projects exceeding Rs.1 Crore?	150
16.13	Voluntary impact assessment - Whether CSR Expenditure?	150
16.14	Disclosure	150
16.15	Penalties	150

17**ONGOING PROJECT**

17.1	Background	151
17.2	Meaning of “ongoing project”	152
	17.2-1 Paraphrasing	152
17.3	Purpose	152
17.4	Duration of “ongoing project”	152
17.5	Effective date	152
17.6	Commencement of ongoing project	153
17.7	Maximum permissible time period for any on-going project	153
17.8	Board shall monitor implementation of “on-going project”	154
17.9	Transfer to special bank account [section 135(6)]	154
	17.9-1 Transfer to unspent CSR A/c is mandatory	154
	17.9-2 Illustration	155
	17.9-3 Prospective application of amendment	155
	17.9-4 MCA clarification	155
	17.9-5 Additional one month for spending on ongoing project	155
	17.9-6 Can FD be placed out of special account?	156
	17.9-7 Different ongoing projects - Whether different accounts have to be opened?	156
	17.9-8 Use of funds in unspent CSR account	156
17.10	Treatment of unspent CSR amount in respect of period up to Financial Year 2019-20	157
17.11	Responsibilities of the board in connection with ongoing projects	157
17.12	Broad steps in financial terms	158
17.13	Implementation through implementing agencies	159
17.14	Modification or abandonment of an ongoing project	159
	17.14-1 Use of funds earmarked for one project be used for another project	159

	PAGE
17.15 Disclosure on website	160
17.16 Disclosure in directors' report	160
17.17 Penalties	160

18

IMPLEMENTATION THROUGH IMPLEMENTING AGENCIES

18.1 Background	162
18.2 Types of implementing agency	162
18.3 Implementation through company/trust/society established by the company	162
18.3-1 Registration under section 12A and section 80G of the Income-tax Act, 1961	162
18.3-2 "Registered" trust - Meaning	164
18.3-3 Society	164
18.3-4 Directors/Shareholders can become trustees, etc.	164
18.3-5 Track record not required	164
18.3-6 Established - Meaning	165
18.3-7 An entity established by subsidiary of the company is not covered	166
18.3-8 Implementing entity for collaborating companies	166
18.3-9 Interested party	166
18.3-10 CSR registration	167
18.4 Implementation through company/trust/society established by Government, etc.	167
18.4-1 Track record not required	167
18.4-2 Registration under the Income-tax Act, 1961 is not required	167
18.4-3 Registered trust	168
18.4-4 Society	168
18.4-5 "Established"- Meaning	168
18.4-6 CSR registration	168
18.5 Entity established under an act of parliament	168
18.5-1 Entity need not be company/trust/society	168

	PAGE	
18.5-2	Track record not required	168
18.5-3	Established “under an act”	168
18.5-4	Registered	169
18.5-5	CSR registration	169
18.6	Implementation through other company/trust/society	169
18.6-1	Registration under the IT Act, 1961	169
18.6-2	Registered trust	170
18.6-3	Society	170
18.6-4	Established by subsidiary or holding company	170
18.6-5	Track record	170
18.6-6	Company could be an interested party	172
18.6-7	CSR registration	172
18.7	CSR registration	172
18.7-1	Purpose of registration	172
18.7-2	Projects approved prior to 1st April 2021 need not be registered	172
18.7-3	Sequence	173
18.7-4	No last date for registration	173
18.7-5	Step plan for setting up an implementing agency and registering it with the Central Government [rule 4(2)]	173
18.8	All projects can be implemented through implementing agencies	173
18.9	Implementation may involve acquisition of a capital asset	173
18.10	Restrictions under the Act/Rules are applicable to implementing agencies	174
18.11	Monitoring by board and certificate by chief financial officer	174
18.11-1	Rule 4(5) may not apply when the company itself undertakes CSR activities on its own	174
18.11-2	Applicable w.e.f. Financial Year 2020-21	177
18.11-3	CFO certificate not required for payment per se	177
18.11-4	CFO certificate not required to be attached/uploaded	177
18.11-5	Format/frequency of report of CFO	177

	PAGE
18.12 Time limit to incur CSR expenditure for projects undertaken through implementing agencies	177
18.13 Disclosure	179
18.14 Penalties	180
18.15 Specimen agreements	180

19

COMPANIES LICENSED UNDER SECTION 8 OF THE CA 2013 OR SECTION 25 OF THE CA 1956

19.1 Companies licensed under section 8 - Whether section 135 applies?	185
19.2 CSR provisions <i>vis-à-vis</i> section 8 company	185
19.2-1 Net worth criterion	185
19.2-2 CSR Committee	185
19.2-3 Net profit criterion	186
19.2-4 Turnover criterion	186
19.2-5 CSR Policy	186
19.2-6 Normal course of business	186
19.2-7 CSR Expenditure	186
19.2-8 Implementation of CSR activities	186
19.3 Penalties	186

20

ACTIVITIES UNDER SCHEDULE VII OF THE CA, 2013

20.1 Importance of Schedule VII	187
20.2 Activities mentioned in Schedule VII	188
20.3 Liberal interpretation of the entries	190
20.4 Spending of CSR funds for Covid-19	190
20.4-1 Activities covered by Schedule VII	190
20.4-2 'Chief minister's relief fund'/'state relief fund for Covid-19' are excluded	191
20.4-3 Payment of salary/wages	192
20.5 Eradication of hunger, poverty and malnutrition	192

	PAGE
20.6 Healthcare	192
20.7 Sanitation	192
20.8 'Promotion of education'	193
20.8-1 Activities not covered by 'promotion of education'	193
20.9 Measures for reducing inequalities faced by economically backward groups	193
20.10 Ensuring environmental sustainability	193
20.11 Rural development project	193
20.12 Contribution to funds	194
20.12-1 Any other fund specified in (c) above	194
20.12-2 Clarification by MCA	194
20.13 <i>Explanation 2</i> to section 13 of the Income-tax Act, 1961 <i>vis-à-vis</i> Schedule VII	194
20.14 Illustrations of activities covered/not covered by Schedule VII (as clarified by general Circular No. 05/01/2014, dated 18.06.2014)	195

21

APPLICABILITY TO A FOREIGN COMPANY

21.1 Applicability to a foreign company	198
21.2 Foreign company having only a branch office or project office is covered	199
21.3 Branch office	199
21.4 Project office	200
21.5 Branch office or project office for FEMA are covered	200
21.6 Net profit	200
21.7 Net worth/turnover	200
21.8 CSR Committee	200
21.9 Report on CSR activity	201
21.10 Actions required	201
21.11 Penalties	201

22**MISCELLANEOUS**

22.1	CSR spending is not <i>ultra vires</i> the company	202
22.2	Central Government's power to give directions [section 135(8)]	203

23**ACCOUNTING**

23.1	Introduction	204
23.2	Accounting of CSR expenses	204
23.2-1	Shortfall in CSR spending	205
23.2-2	Excess spending	206
23.2-3	Surplus arising out of the CSR projects	206

24**DISCLOSURE REQUIREMENTS**

24.1	Background	207
24.2	Disclosure in statement of profit and loss	207
24.3	Cash flow statement	208
24.4	Related party disclosure	208
24.5	Provision for liability	208
24.6	Disclosures in the directors report	208
24.7	Disclosures on the website of the company	209
24.7-1	Impact assessment report	209
24.7-2	Project outlay	209
24.8	Reporting for a foreign company	209
24.9	Disclosures not required	210
24.10	Disclosure in income tax return	210
24.11	Consequences of non-disclosure	210

25**REPORTS AND CERTIFICATES**

25.1	Background	<i>211</i>
25.2	Annual report on CSR	<i>211</i>
25.3	Format for CSR annual report in Annexure II to the rules	<i>211</i>
25.4	Disclosure in Annexure II	<i>212</i>
25.4-1	CSR Policy	<i>212</i>
25.4-2	Composition of CSR Committee (item 2)	<i>212</i>
25.4-3	Web-link	<i>212</i>
25.4-4	Impact assessment report	<i>212</i>
25.4-5	Details of the amount available for set off in pursuance of rule 7(3) and amount required for set off for the financial year, if any: (item 5)	<i>212</i>
25.4-6	Average net profit of the company as per section 135(5) (item 6)	<i>212</i>
25.4-7	CSR obligation for the financial year: (item 7)	<i>213</i>
25.4-8	Tabular details as follows:	<i>213</i>
25.5	Signature on Annexure II	<i>216</i>
25.6	Penalties	<i>216</i>

26**CONSEQUENCES OF DEFAULTS IN SPENDING ON CSR ACTIVITIES**

26.1	Background	<i>217</i>
26.2	The defaults by a company could be classified into two categories	<i>217</i>
26.3	Not spending the required CSR amount	<i>218</i>
26.4	Ongoing project [section 135(6) and rule 2(1)(i)]	<i>218</i>
26.4-1	Transfer to a fund specified in Schedule VII: whether regarded as compliance under section 135?	<i>218</i>
26.5	Other projects	<i>219</i>
26.6	Penal consequences	<i>219</i>

	PAGE
26.6-1 MCA clarification	220
26.6-2 Company liable to penalty even if unspent CSR account is not opened	220
26.6-3 Penalty is not automatic upon default	221
26.6-4 No discretion to authority to levy less than prescribed penalty	223
26.7 Summary of some important principles regarding levy of penalty	223
26.8 Disclosure in board report or website is not sufficient	224
26.9 Other defaults	224

27

CSR - DEDUCTIBILITY OF CSR EXPENSES UNDER THE INCOME-TAX ACT, 1961

27.1 Background	226
27.2 Expenses incurred on or after 1st April 2015 (Assessment year 2015-16 onwards)	227
27.3 CSR Expenditure up to 2% of net profits by a company covered by section 135 of the Companies Act, 2013	227
27.3-1 Section 37(1)	227
27.3-2 Deduction under sections 30 to 36 of the Income-tax Act, 1961	228
27.4 CSR Expenditure in excess of 2% of net profits by a company covered by section 135 of the Companies Act, 2013	228
27.4-1 View 1: <i>Explanation 2</i> to section 37(1) covers CSR Expenditure in excess of 2% of net profits	229
27.4-2 View 2: <i>Explanation 2</i> to section 37(1) does not cover CSR Expenditure in excess of 2% of net profits	230
27.4-3 Conclusion	232
27.5 Expenditure on activities in areas or subject specified in Schedule VII of the Companies Act, 2013 by a company not covered by section 135	232
27.5-1 View 1: <i>Explanation 2</i> to section 37(1) does not cover expenditure on activities in areas or subject specified in Schedule VII of the Companies Act, 2013 by a company not covered by section 135	232

	PAGE
27.5-2 View 2: The Explanation covers expenditure on activities in areas or subject specified in Schedule VII of the Companies Act, 2013 by a company not covered by section 135	233
27.5-3 Conclusion	233
27.6 Expenditure on activities in areas or subject specified in Schedule VII of the Companies Act, 2013 by an entity other than a company	234
27.6-1 View 1: <i>Explanation 2</i> to section 37(1) does not cover expenditure on activities in areas or subject specified in Schedule VII of the Companies Act, 2013 by an entity other than a company	234
27.6-2 View 2: <i>Explanation 2</i> to section 37(1) covers expenditure on activities in areas or subject specified in Schedule VII of the Companies Act, 2013 by an entity other than a company	235
27.6-3 Conclusion	235
27.7 Expenditure on activities specified in Schedule VII of the Companies Act, 2013 by a company covered by section 135 but not treated as CSR Expenditure for the purpose of section 135 of the CA, 2013	236

28

CSR - DEDUCTIBILITY OF CSR EXPENDITURE UNDER SECTION 80G OF THE INCOME-TAX ACT, 1961

28.1 Different types of CSR Expenditure	262
28.2 Relevant provisions	263
28.3 Contribution to funds specified in section 80G(2)	264
28.3-1 Contribution to the Swachh Bharat Kosh	264
28.3-2 Contribution to the Clean Ganga Fund	264
28.3-3 Contribution to the Prime Minister's National Relief Fund (PMNRF) or PM CARES FUND	264
28.4 Contribution to any other fund set up by the Central Government for socio-economic development and relief and welfare of the scheduled castes, the scheduled tribes, other backward classes, minorities and women	265

	PAGE
28.5 Deductibility of other CSR expenditure	265
28.6 CSR expenditure incurred directly by the assessee	265
28.7 CSR expenditure incurred through trust, societies or companies (implementing agencies)	265
28.7-1 There could be two types of expenditure	265
28.7-2 A sum of money incurred	266
28.7-3 Expenditure incurred in kind	269
APPENDICES	
APPENDIX 1 : Relevant Section of the Companies Act, 2013	273
APPENDIX 2 : Schedule VII of the Companies Act, 2013	276
APPENDIX 3 : Companies (Corporate Social Responsibility Policy) Rules, 2014	279
APPENDIX 4 : Relevant Notifications under Companies Act, 2013	298
APPENDIX 5 : Relevant Circulars/Clarifications under the Companies Act, 2013	303
SUBJECT-INDEX	<i>i</i>