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AMENDMENT IN CSR POLICY RULES 2014

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2022

The Ministry of Corporate Affairs vide Notification dated 20th September 2022, has amended the CSR Policy Rules and the following are the amendments to the rules:

1. Insertion of new proviso after the proviso to sub-rule 1 of Rule 3:

In sub rule of rule 3, the following proviso is inserted

“Provided further that a company having any amount in its Unspent Corporate Social Responsibility Account as per sub-section (6) of section 135 shall constitute a CSR Committee and comply with the provisions contained in sub-sections (2) to (6) of the said section”.

Impact of Amendment:

As per the amended Rules, constitution of a CSR Committee is mandatory where the Company has any amount in its Unspent CSR Account in terms of the provisions of Section 135(6) of the Act i.e., if the Company has any extant ongoing project, it is mandatorily required to constitute a CSR Committee.

2. Omission of sub-rule 2 of Rule 3:

As per the amendment, the sub rule 2 of rule 3 has been omitted.

Impact of Amendment:

As per the earlier provisions, the CSR provisions of sub section 2 to 6, ceased to be applicable on a company when it ceased to meet the criteria as specified as Section 135(1) for three consecutive financial years.

The amendment to the CSR rules was to dispense this provision. Once the CSR provisions (relating to formation of the committee and its duties) become applicable on a company, they will continue to function and the committee will not cease after 3 years.

3. Substitution of sub-rule 1 of Rule 4:

As per the amendment, the sub rule 1 of rule 4 has been substituted as follows:

“The Board shall ensure that the CSR activities are undertaken by the company itself or through, –

a) a company established under section 8 of the Act, or a registered public trust or a registered society, exempted under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 or registered under section 12A and approved under 80 G of the Income Tax Act, 1961 (43 of 1961), established by the company, either singly or along with any other company; or

b) a company established under section 8 of the Act or a registered trust or a registered society, established by the Central Government or State Government; or

c) any entity established under an Act of Parliament or a State legislature; or

d) a company established under section 8 of the Act, or a registered public trust or a registered society, exempted under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 or registered under section 12A and approved under 80 G of the Income Tax Act, 1961, and having an established track record of at least three years in undertaking similar activities.

Explanation- For the purpose of clause (c), the term “entity” shall mean a statutory body constituted under an Act of Parliament or State legislature to undertake activities covered in Schedule VII of the Act.”

Impact of Amendment:

Earlier, only those companies established under the provisions of Section 8 of the Act, or registered public trusts or registered societies who were registered under **Sections 12A** and 80 G of the Income Tax Act, 1961 were eligible under the said rule. **Now, the scope has been widened to include** those companies established under section 8 of the Act, or registered public trusts or registered societies which are **exempted under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10** or registered under section 12A and approved under 80 G of the Income Tax Act, 1961.

Further the word “**entities**” has also been defined by way of an explanation.

4. Amendment in clause c of sub-rule 3 of Rule 8:

Earlier companies were allowed to book expenditure on undertaking impact assessment **up to 5% of the total CSR expenditure** for that financial year or Rs. 50 Lakhs, whichever was higher.

Post Amendment:

Companies can book expenditure on undertaking impact assessment **up to 2% of the total CSR expenditure** for that financial year or **Rs. 50 Lakhs, whichever is higher.**

5. Substitution of Annexure – II to the rules regarding format of the annual report on CSR activities to be included in the board's report of a company:

Further Annexure – II to the rules regarding the format of annual report on CSR activities to be included in the Board's Report has also been substituted with further information. Please refer the notification reproduced below for the format.

<https://www.mca.gov.in/bin/dms/getdocument?mds=1Wt3uUYzV0rGCr2Vxa8ztQ%253D%253D&type=open>