



26th November, 2020 / 16651

Smt. Nirmala Sitharaman
Hon'ble Minister of Finance
Govt. of India
New Delhi.

Respected Madam,

At the outset, we would like to express our sincere appreciation for the manner in which the Government has been handling the COVID-19 pandemic and the efforts undertaken to fight the same.

Corporate Social Responsibility and guidelines / relaxations under MCA

As you are aware, currently, companies having a net worth of Rs. 500 Crore or more, or annual turnover of Rs. 1,000 Crore or more, or net profit of Rs. 5 Crore or more are mandatorily required to spend 2 percent of their average net profits of three years for incurring expenditure on projects for Corporate Social Responsibility (CSR). Additionally, there are several companies, who even though not mandatorily required under Statute, are contributing their bit by undertaking various CSR activities.

On March 23, 2020, vide its General Circular No. 10/2020 (copy attached), in light of the COVID-19 outbreak in India, the Ministry of Corporate Affairs (MCA) notified that spending of CSR funds by companies for COVID-19, shall be considered as eligible CSR activity and that the funds may be spent for various activities related to COVID-19, including promotion of healthcare, preventive healthcare and sanitization and disaster management.

Moreover, on April 10, 2020, the MCA vide its General Circular No. 15/2020 (copy attached) came out with a clarification that contributions made to 'PM Cares Fund' or to State Disaster Management Authority shall also qualify as eligible CSR expenditure and that a liberal interpretation shall be adopted when deciding the ambit and purview of eligible activities falling under Schedule VII of Sec. 135 of the Companies Act, 2013 dealing with Corporate Social Responsibility.

Natubhai Patel
President

Hemant N. Shah
Sr. Vice President

K. I. Patel
Vice President

Pathik S. Patwari
Hon. Secretary

V. P. Vaishnav
Hon. Secretary (R)

Sachin K. Patel
Hon. Treasurer



Moreover, to encourage Pharma Companies or Companies engaged in the research and development activity of vaccine, drugs and medical devices in their normal course of business, the MCA on August 24, 2020, vide GSR 526(E) (copy attached) amended the CSR rules stating that such Companies may undertake Research and Development activity of new vaccine, drugs and medical devices related to COVID-19 for Financial Years 2020-21, 2021-22 and 2022-23 (subject to certain conditions) and the same shall be considered as eligible CSR spending.

Granting a specific tax deduction in respect of CSR activities involving COVID Care expenditure by Companies, including costs of vaccination for prevention

Presently, under Explanation 2 of Section 37 of the I.T. Act, expenditure incurred by Companies on Corporate Social Responsibility (as referred to in Sec. 135 of the Companies Act, 2013) has been specifically excluded from eligible business expenditure. Granting a specific tax incentive in respect of such CSR expenditure involving COVID care, including vaccination for prevention of public at large, as also the employees of such Company, would not only prove to be a welcome relief to Companies during the challenging times of pandemic, but it would also go to lighten the burden on the Government in regard to their obligation for incurring such expenditure.

The present provisions of Section 80G of the Income-tax Act grant 100% deduction in respect of any contribution made to the PM National Relief Fund or the PM Cares Fund. The underlying rationale is to allow tax payers to avail the benefit of an income tax deduction in respect of contributions made to such Funds, which are aimed at providing relief or care in situations of crisis or calamity, including such scenarios as the present Pandemic.

When such contributions to Funds made by taxpayers for important national causes have been granted the benefit of tax incentive by way of 100% deduction in the computation of taxable income, there can be no logical justification not to allow similar deduction in respect of contributions for undertaking CSR projects which involve work that directly supports such key objectives of national interest championed by the Government. The Ministry of Finance maybe advised to frame suitable guidelines and directives in regard to the allowability of such expenditure for tax purposes.

Natubhai Patel
President

Hemant N. Shah
Sr. Vice President

K. I. Patel
Vice President

Pathik S. Patwari
Hon. Secretary

V. P. Vaishnav
Hon. Secretary (R)

Sachin K. Patel
Hon. Treasurer



We wish to fervently appeal to your goodself to kindly introduce legislative provisions in the forthcoming budget to be presented by your goodself in February 2021, so as to provide that such CSR expenditure for COVID care and vaccination for effective prevention, for the benefit of public at large, including employees of the respective Companies and their families, shall be allowed as a 100% tax deduction in the computation of the taxable income of such Companies. It should also be provided that this incentive shall be available for all such expenditure incurred during the current financial year 2020-21.

Hoping to be obliged by your kind and favourable consideration of our request.

With Regards,

Sincerely,

Natubhai Patel
President

Jainik Vakil
Chairman, Direct Tax Committee

Natubhai Patel
President

Hemant N. Shah
Sr. Vice President

K. I. Patel
Vice President

Pathik S. Patwari
Hon. Secretary

V. P. Vaishnav
Hon. Secretary (R)

Sachin K. Patel
Hon. Treasurer

General Circular No. 10/2020

No. 05/01/2019-CSR
GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS

5th floor, A Wing, Shastri Bhawan,
Dr. R. P. Road, New Delhi- 110001
23.03.2020

To,

All Stakeholders,

Subject: Clarification on spending of CSR funds for COVID-19.

Ma'am/Sir,

Keeping in view of the spread of novel Corona Virus (COVID-19) in India, its declaration as pandemic by the World Health Organisation (WHO), and, decision of Government of India to treat this as a notified disaster, it is hereby clarified that spending of CSR funds for COVID-19 is eligible CSR activity.

2. Funds may be spent for various activities related to COVID-19 under item nos. (i) and (xii) of Schedule VII relating to promotion of health care, including preventive health care and sanitation, and, disaster management. Further, as per General Circular No. 21/2014 dated 18.06.2014, items in Schedule VII are broad based and may be interpreted liberally for this purpose.
3. This issues with the approval of the competent authority.

Yours faithfully, .



(Gyaneshwar Kumar Singh)

Joint Secretary to Government of India

Tel: 011-23383345

Copy to:

1. E Governance for uploading on MCA Website
2. Guard File

General Circular No. 15 /2020

F. No. CSR-01/4/2020-CSR-MCA
Government of India
Ministry of Corporate Affairs

10th April, 2020

**COVID-19 related Frequently Asked Questions (FAQs) on
Corporate Social Responsibility (CSR)**

The Ministry has been receiving several references/ representations from various stakeholders seeking clarifications on eligibility of CSR expenditure related to COVID-19 activities. In this regard, a set of FAQs along with clarifications are provided below for better understanding of the stakeholders:

S. No.	Frequently Asked Questions (FAQs)	Reply
1	Whether contribution made to 'PM CARES Fund' shall qualify as CSR expenditure?	Contribution made to 'PM CARES Fund' shall qualify as CSR expenditure under item no (viii) of Schedule VII of the Companies Act, 2013 and it has been further clarified vide Office memorandum F. No. CSR-05/1/2020-CSR-MCA dated 28th March, 2020.
2.	Whether contribution made to 'Chief Minister's Relief Funds' or 'State Relief Fund for COVID-19' shall qualify as CSR expenditure?	'Chief Minister's Relief Fund' or 'State Relief Fund for COVID-19' is not included in Schedule VII of the Companies Act, 2013 and therefore any contribution to such funds shall not qualify as admissible CSR expenditure.
3.	Whether contribution made to State Disaster	Contribution made to State Disaster Management Authority to combat COVID-19

	Management Authority shall qualify as CSR expenditure?	shall qualify as CSR expenditure under item no (xii) of Schedule VII of the 2013 and clarified vide general circular No. 10/2020 dated 23 rd March, 2020.
4.	Whether spending of CSR funds for COVID-19 related activities shall qualify as CSR expenditure?	Ministry vide general circular No. 10/2020 dated 23 rd March, 2020 has clarified that spending CSR funds for COVID-19 related activities <u>shall qualify</u> as CSR expenditure. It is further clarified that funds may be spent for various activities related to COVID-19 under items nos. (i) and (xii) of Schedule VII relating to promotion of health care including preventive health care and sanitation, and disaster management. Further, as per general circular No. 21/2014 dated 18.06.2014, items in Schedule VII are broad based and may be interpreted liberally for this purpose.
5.	Whether payment of salary/wages to employees and workers, including contract labour, during the lockdown period can be adjusted against the CSR expenditure of the companies?	Payment of salary/ wages in normal circumstances is a contractual and statutory obligation of the company. Similarly, payment of salary/ wages to employees and workers even during the lockdown period is a moral obligation of the employers, as they have no alternative source of employment or livelihood during this period. Thus, payment of salary/ wages to employees and workers during the lockdown period (including imposition of other social distancing requirements) shall not qualify as admissible CSR expenditure.

6.	Whether payment of wages made to casual /daily wage workers during the lockdown period can be adjusted against the CSR expenditure of the companies?	Payment of wages to temporary or casual or daily wage workers during the lockdown period is part of the moral/ humanitarian/ contractual obligations of the company and is <u>applicable to all companies</u> irrespective of whether they have any legal obligation for CSR contribution under section 135 of the Companies Act 2013. Hence, payment of wages to temporary or casual or daily wage workers during the lockdown period <u>shall not</u> count towards CSR expenditure.
7.	Whether payment of ex-gratia to temporary /casual /daily wage workers shall qualify as CSR expenditure?	If any ex-gratia payment is made to temporary / casual workers/ daily wage workers over and above the disbursement of wages, specifically for the purpose of fighting COVID 19, the same shall be admissible towards CSR expenditure as a one-time exception provided there is an explicit declaration to that effect by the Board of the company, which is duly certified by the statutory auditor.

This issues with the approval of competent authority.



(Shobhit Srivastava)
Deputy Director, MCA



भारत का राजपत्र The Gazette of India

सी.जी.-डी.एल.-अ.-24082020-221325
CG-DL-E-24082020-221325

असाधारण
EXTRAORDINARY
भाग II—खण्ड 3—उप-खण्ड (i)
PART II—Section 3—Sub-section (i)
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 420]
No. 420]

नई दिल्ली, सोमवार, अगस्त 24, 2020/भाद्र 2, 1942
NEW DELHI, MONDAY, AUGUST 24, 2020/BHADRA 2, 1942

कारपोरेट कार्य मंत्रालय

अधिसूचना

नई दिल्ली, 24 अगस्त, 2020

सा.का.नि. 526(अ).—केन्द्रीय सरकार, कंपनी अधिनियम, 2013 (2013 का 18) की धारा 135 और धारा 469 की उप-धारा (1) और उप-धारा (2) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, कंपनी (कारपोरेट सामाजिक दायित्व नीति) नियम, 2014 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात्:—

1. संक्षिप्त नाम और प्रारंभ.—(1) इन नियमों का संक्षिप्त नाम कंपनी (कारपोरेट सामाजिक दायित्व नीति) संशोधन नियम, 2020 है।

(2) ये राजपत्र में प्रकाशन की तारीख से प्रवृत्त होंगे।

2. कंपनी (कारपोरेट सामाजिक दायित्व नीति) नियम, 2014 (इसे इसमें इसके पश्चात् उक्त नियम कहा गया है) के नियम 2 के, उप-नियम (1) के, खंड (ड) में निम्नलिखित परंतुक अंतःस्थापित किया जाएगा, अर्थात् :-

“परन्तु व्यापार के सामान्य अनुक्रम में नई वैक्सीन, औषधियों और चिकित्सा उपकरणों के अनुसंधान और विकास के क्रियाकलाप में लगी हुई कोई कंपनी निम्नलिखित शर्तों के अधीन वित्तीय वर्ष 2020-21,

2021-22 और 2022-23 के लिए कोविड-19 से संबंधित नई वैक्सीन, औषधियों और चिकित्सा उपकरणों के अनुसंधान और विकास के क्रियाकलाप कर सकेगी -

- (i) ऐसे अनुसंधान और विकास क्रियाकलाप अधिनियम की अनुसूची VII की मद सं. (ix) में उल्लिखित संस्थानों या संगठनों में से किसी के सहयोग से निष्पादित किया जाएगा।
 - (ii) ऐसे क्रियाकलाप के ब्यौरे बोर्ड की रिपोर्ट में सम्मिलित सीएसआर पर दी गई वार्षिक रिपोर्ट में पृथकतः प्रकट किया जाएगा।
3. उक्त नियमों के, नियम 4 के, उप-नियम 1 में "अपने व्यवसाय के सामान्य कार्य के अनुसरण में किए गए कार्यों को छोड़कर" शब्दों का लोप किया जाएगा।
4. उक्त नियमों के, नियम 6 के, उप-नियम (1) में :-
- (i) प्रथम परंतुक का लोप किया जाएगा;
 - (ii) दूसरे परंतुक में, "यह और कि" शब्दों का लोप किया जाएगा।

[ई-फा.सं. सीएसआर-07/2/2020-सीएसआर-एमसीए]

जानेश्वर कुमार सिंह, संयुक्त सचिव

टिप्पण : मूल नियम भारत का राजपत्र, असाधारण, भाग II, खंड 3, उप-खंड (i) में अधिसूचना संख्यांक सा.का.नि. 129(अ), तारीख 27 फरवरी, 2014 द्वारा प्रकाशित किए गए और इन्हें तत्पश्चात् अधिसूचना संख्यांक सा.का.नि. 644(अ), तारीख 12 सितंबर, 2014, अधिसूचना संख्यांक सा.का.नि. 43(अ), तारीख 19 जनवरी, 2015, अधिसूचना संख्यांक सा.का.नि. 540(अ), तारीख 23 मई, 2016 और अधिसूचना संख्यांक सा.का.नि. 895(अ), तारीख 19 सितंबर, 2018 द्वारा संशोधित किया गया।

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 24th August, 2020

G.S.R. 526(E).—In exercise of the powers conferred by section 135 and sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Corporate Social Responsibility Policy) Rules, 2014, namely:-

1. **Short title and commencement.**—(1) These rules may be called the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2020.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Companies (Corporate Social Responsibility Policy) Rules, 2014 (hereinafter referred to as the said rules), in rule 2, in sub-rule (1), in clause (e), the following proviso shall be inserted, namely:-

“Provided that any company engaged in research and development activity of new vaccine, drugs and medical devices in their normal course of business may undertake research and development activity of new vaccine, drugs and medical devices related to COVID-19 for financial years 2020-21, 2021-22 and 2022-23 subject to the conditions that-

- (i) such research and development activities shall be carried out in collaboration with any of the institutes or organisations mentioned in item (ix) of Schedule VII to the Act.
- (ii) details of such activity shall be disclosed separately in the Annual Report on CSR included in the Board’s Report”.

3. In the said rules, in rule 4, in sub-rule 1, the words “excluding activities undertaken in pursuance of its normal course of business” shall be omitted.

4. In the said rules, in rule 6, in sub-rule (1), —

- (i) first proviso shall be omitted;
- (ii) In the second proviso, the word “further” shall be omitted.

[E- F. No. CSR-07/2/2020-CSR-MCA]

GYANESHWAR KUMAR SINGH, Jt. Secy.

Note: The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 129(E), dated the 27th February, 2014 and were subsequently amended by notification number G.S.R. 644(E), dated the 12th September, 2014, notification number G.S.R. 43(E), dated the 19th January, 2015, notification number G.S.R. 540 (E), dated the 23rd May, 2016 and notification number G.S.R. 895(E), dated the 19th September, 2018.