

## Corporate Social Responsibility from lens of Income Tax and GST Act.

- In every “Fruit Of Success” is embedded a seed of “Social Responsibility”. Fulfilling this obligation of social responsibility energises the



machinery to achieve further heights of success and in the process brings abundance to the society at large. Corporate Social Responsibility (CSR) is one such machinery which facilitate contribution by companies towards economic development of the nation.

- Human brain is conditioned to expect maximum reward and therefore mankind somehow finds it difficult to perform any act of kindness without expectation of rewards. In CSR apart from the reaping the reward of ensuring compliance to Section 135 of Companies Act 2013, human brain keeps working hard to reap further rewards under other acts namely Income Tax Act and Goods And Service Tax Act. The article endeavours to look at CSR contributions from the lens of GST and Income Tax Act.
- **CSR And Income Tax Act:**
  - ♦ The provisions of section 37(1) of the Income-tax Act provide that deduction for any expenditure, which is not mentioned specifically in section 30 to section 36 of the Income-tax Act, shall be allowed if the same is incurred wholly and exclusively for the purposes of carrying on business or profession. As the CSR expenditure (being

an application of income) is not incurred for the purposes of carrying on business, such expenditures cannot be allowed under the provisions of section 37 of the Income-tax Act. Therefore, in order to provide certainty on this issue, said section 37 has been amended to clarify that for the purposes of sub-section (1) of section 37 any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 shall not be deemed to have been incurred for the purpose of business and hence shall not be allowed as deduction under said section 37. The above disallowance is prominently evident in several forms like ITR 6 where there is a specific mention of “Amounts debited to Profit and Loss Account which are disallowed under section 37”.

- ◆ However, we may note that the CSR expenditure which are of the nature described in section 30 to section 36 of the Income-tax Act shall be continued to be allowed as deduction under those sections subject to fulfilment of conditions, if any, specified therein. This amendment takes effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent years.
- ◆ Further if it can be shown that the contributions are made to a charitable trust which can produce the 80 G certificate, then such contributions can be treated as

CSR and a rebate can further be obtained. Thus if companies undertakes CSR activities through registered NGOs they can avail 50% or 100% tax benefit on CSR spending and will thus save on their tax liabilities. However if the company executes CSR spending directly on its own, the company will have to pay additional taxes on disallowance of CSR spending. Thus executing CSR activities through registered NGOs would yield better tax benefit and therefore would be in interest of companies.

- **CSR And GST Act:**

- ◆ “Schedule For GST Rates For Services” lists 86 such services which are exempted. However out of these 86 there would be only selected few which would be covered under Schedule VII of Companies Act 2013 qualifying for CSR activities. Thus harmonising two statutes namely Companies Act 2013 and GST Act 2017 would foster increased acceptance and implementation of statute and also smoothen the process of compliance. Thus covering all activities covered under Schedule VII of Companies Act 2013 under GST exempted activities would be in larger interest of the society and decrease cost and cumbersomeness of compliance for both the companies and the regulator.

- From above it is evident that before embarking upon any act of compliance, companies need to exercise needed diligence. Post understanding the mandates of a particular statute (Companies

Act 2013 in this case), there is a need to understand the repercussions that the execution will have on other statutes ( GST Act and Income Tax Act in this case). Unless an harmonious implementation is executed taking cognisance of all relevant statutes, it may cost company significantly in terms of denial of deductions, attraction of penal provisions, and unwarranted long drawn assessment proceedings.

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