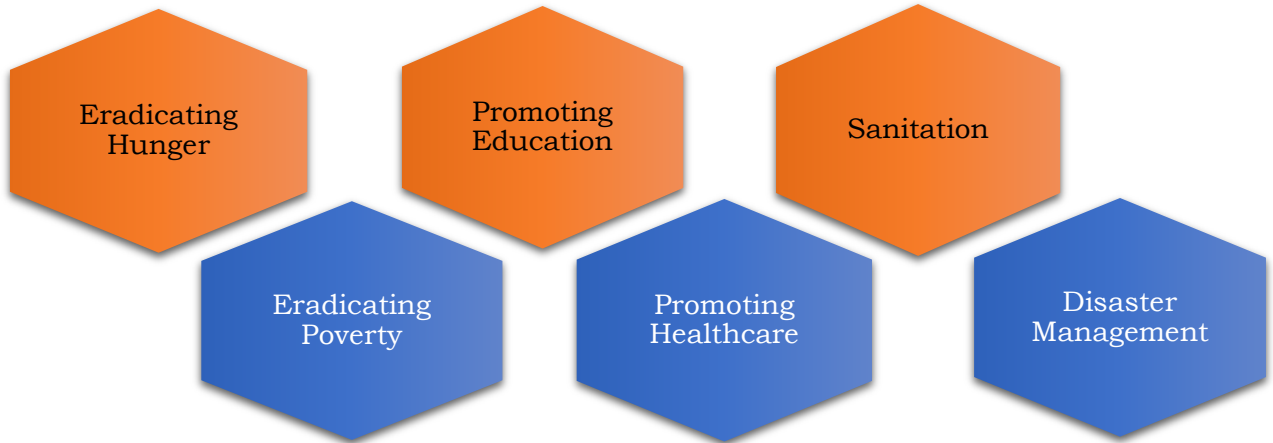


CSR ACTIVITIES RELATED TO COVID

now is the time, what are you waiting for

Ministry of Corporate Affairs (MCA) vide its Circular dated 23.03.2020 had notified that all expenditures incurred on activities related to COVID-19 as permissible avenues for CSR expenditure.

Generally permissible categories of expenses under CSR (only major ones are listed, for full list refer Schedule VII)



Mandatory Requirement to spend 2% of Net Profits

Section 135 of the Companies Act, 2013 inter alia, provides for companies having-

- ✓ net worth of Rs. 500 crore or more, or
- ✓ turnover of Rs. 1,000 crore or more, or
- ✓ a net profit of Rs. 5 crore or more in a financial year

to spend at least 2% of the average net profits of last 3 years for the company's Corporate Social Responsibility (CSR) policy.

Accumulated CSR funds – now is the time to spend

- Companies having accumulated CSR may opt to spend such accumulated funds towards COVID related activities in the current year and such a spending shall be considered as an eligible CSR expenditure.
- Companies spending such CSR funds in the current year may be eligible to get deduction u/s 80G* in the current year.

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Makeshift hospitals & COVID Care Facilities

General Circular No. 05/2021 dated 22.04.2021, issued by the MCA provides an Insight into the “spending of CSR funds for setting up makeshift hospitals and temporary COVID Care facilities”, whereby companies have now been permitted to undertake expenditure for setting up of makeshift hospitals and temporary COVID care facilities as eligible CSR expenditures.

CSR – Deductible under Income Tax Act?

- CSR expenditures have been expressly disallowed u/s 37 of the Income Tax Act.
- Now whether the same can be claimed as a deduction u/s 80G of the Income Tax Act has been a controversial topic.
- We have thrown some light in this publication on the allowability of CSR u/s 80G of the Income Tax Act, please refer below:

A company may opt to undertake CSR activities by either of the following way

Incurring CSR expenditure on its own

E.g.: A Pvt. Ltd. orders PPE kits from a vendor named M/s XYZ. such an expenditure will comply with the CSR provisions of the Companies Act, 2013, & thus compliance is achieved; however, such an expenditure cannot be claimed as a deduction under the provisions of Income Tax Act. Do not attempt to claim them u/s 37.

Executing CSR activities through charitable organizations like NGOs, trusts, societies or section 8 companies

E.g.: A Pvt. Ltd. donates funds to a Sec 80G registered trust named Janta Rakshak Trust. The said trust is genuinely engaged in a variety of charitable activities, include Covid related projects like supply of PPE kits, etc. In this case, a Pvt. Ltd. shall be able to achieve compliance apropos CSR, and it may be able to claim deduction under IT Act as well. *

**The AO may disallow the eligibility of deduction taken u/s 80G.*

In certain cases, the tax department is denying deduction under section 80G wherein several appeals are pending before the CIT(A), whereas; ITAT have allowed such a claim in certain cases. In our own humble opinion, Sec 80G claim is likely to survive.

**companies are advised to take professional guidance before spending on CSR to optimise their tax liability while being compliant for CSR obligation.*

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