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Corporate Social Responsibility- An Undeniable Helper amidst the Covid-19 Pandemic

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ABSTRACT

The concept and ambit of Corporate Social Responsibility (CSR) has exponentially increased in the recent past particularly during the outbreak of the novel coronavirus disease (COVID-19) which was declared as a pandemic by the World Health Organization (WHO) on 11.03.2020. The number of people affected due to the virus and its resulting impact on CSR has transformed the outlook of businesses towards the society all over the world. Enterprises in India have recognized their responsibility and have proactively acted towards the society beyond the basic responsibility mandated upon them by way of the Companies Act, 2013, in such unprecedented times. Companies in India have made consented efforts through a number of initiatives carried by them or by their CSR Arms or by collaborating with NGOs, governmental authorities or along with other companies. The paper consolidates the provisions associated with CSR in India and the activities which have been extensively performed by various companies in India to fulfill their responsibility towards the society in recent times of COVID-19. Furthermore, the paper also throws light on the lacunas that have come in the way of companies while fulfilling their social responsibility. At last, the paper attempts to show how the Corporate Social Responsibility has acted as a helper for the society in such an unanticipated time of the coronavirus outbreak.

KEYWORDS: *Corporate Social Responsibility (CSR), CSR Initiatives, COVID-19, Companies Act, 2013, India.*

DISCLAIMER: *The facts and figures presented in this paper are based on limited information available on public domain, being the basis of presenting my outlook on the subject matter.*

I. INTRODUCTION

The outbreak of the novel coronavirus (COVID-19) pandemic is an unprecedented event that no individual or organization could have anticipated before and prepared themselves against well in advance. The pandemic has affected more than 6 million people worldwide (as of

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01.06.2020). Amidst such unprecedented times, while the entire world is suffering due to the pandemic, involvement of the companies to support the society has become the need of the hour by various means, Corporate Social Responsibility (CSR) being one of them. Philip Kotler and Nancy Lee define Corporate Social Responsibility as “a commitment to improve community well-being through discretionary business practices and contributions of corporate resources.”² Corporate Social Responsibility (CSR), in general, can be understood as the various practices and initiatives taken up by the corporate entities by assuming their responsibility towards the environment and the society. Its roots lies in the basic notion that an entity exists with the help of various resources it acquires from the society and thus, there exists a responsibility on such entities to return something back to the society in some way or the other. CSR has been a source of fresh prospects, opportunities, innovation for the Indian firms since the very beginning in order to contribute towards the sustainable development. According to the CSR Portal of Ministry of Corporate Affairs³, activities in CSR are not only confined to the some general issues but rather have a huge ambit ranging from environment to rural development, health and sanitation, education, animal welfare, conservation of resources etc. Thus, one may say that the idea of CSR relies on the basic idea of give and take. Entities depend upon the society for various resources in the form of raw material, human resources etc. and in return give back in the form of CSR.

In India, the companies were at a good pace in their drive for contributing towards CSR since it was made mandatory by way of Section 135 of the Companies Act, 2013. But, it is the present outbreak of the novel coronavirus (COVID-19) pandemic, which placed the corporate world in a position to test their participation towards CSR. The companies were reasonably proactive in carrying out CSR initiatives as a part of their business operations even before the outbreak of coronavirus. But it has been the deadly coronavirus, which was declared as a pandemic on 11.03.2020 by World Health Organization (WHO), that made corporates not only in India, but around the globe, realize that along with expanding their businesses, they also have a responsibility towards the society where they operate and thus have a duty to extend a helping hand towards the masses who are in need. The current global pandemic which has affected millions of people worldwide is an event no one could have anticipated and it came up as a wake-up call for people all around the world.

The daily chores and functioning of people have completely transformed due to the

² Philip Kotler & Nancy Lee, *Corporate Social Responsibility: Doing the Most Good for Your Company and Your Cause* 3 (2005).

³ *Development Sector-wise*, NATIONAL CSR DATA PORTAL, <https://www.csr.gov.in/developmentlist.php> (last visited Apr.16, 2020).

pandemic. The upper and middle class have still been able to manage with the new reality but it is the lower class which has been severely affected. A vast majority of people in India are struggling for the basic essential needs like food and shelter. While the entire world is suffering due to the COVID-19 pandemic, assistance from government, utilization of CSR funds by the companies and the correct utilization of such funds have become the need of the hour to overcome the suffering of people in this battle against the novel corona virus. Both, the Central and the State Governments have taken a number of steps to achieve this aim coupled with Indian companies, who have also contributed at length towards their social responsibility.

The companies in India have, instead of taking the back foot, joined hands with the Government and various organizations to help the people and utilize this as an opportunity to expand their CSR footprint. Companies can said to have, on one hand, carried out various decentralized initiatives on their own or through their CSR arms or by collaborating with organizations to provide meals, ration kits, distribute masks and sanitizers to the disadvantaged groups as well as frontline warriors. Whereas, on the other hand, have also contributed towards centralized initiatives by contributing to the dedicated funds like PM CARES, PMNRF, CMRF. Although there are numerous companies who have contributed towards dedicated funds as well as carried various initiatives at the ground level to support the society in the most effective and efficient manner, yet a vast population in the country is suffering in spite of the initiatives taken by the Government, companies and various other organizations.

II. PROVISIONS RELATED TO CORPORATE SOCIAL RESPONSIBILITY

The practice of CSR in India can be traced back to the ancient times. The philosophy of trusteeship followed by Mahatma Gandhi was synonymous to CSR of the modern world. But it was in 2014, that India emerged as the first country in the world to statutorily mandated Corporate Social Responsibility for certain corporate entities by way of Section 135 of the Companies Act, 2013. Today, in the period of sufferings due to the COVID-19 pandemic, Indian companies have actively contributed towards the society by way of CSR and other individual initiatives. But a question which arises here is that why are firms even required to make such contributions? The answer to this lies in The Companies Act, 2013 and The Companies (Corporate Social Responsibility Policy) Rules, 2014 which prescribes the mandatory provisions relating to CSR that are to be followed by companies meeting certain requirements. The provisions associated with CSR, in context of the concerned subject

matter, are as under:

Rule 2(c), The Companies (Corporate Social Responsibility Policy) Rules, 2014:

“Corporate Social Responsibility (CSR) means and includes but is not limited to:-

- (i) Projects or programs relating to activities, areas or subjects specified in Schedule VII to the Act; or
- (ii) Projects or programs relating to activities undertaken by the board of directors of a company (Board) in pursuance of recommendations of the CSR Committee of the Board as per declared CSR Policy of the company subject to the condition that such policy will include activities, areas or subjects specified in Schedule VII of the Act.”⁴

Sec 135, Companies Act, 2013:

“Corporate Social Responsibility:—

- (1) Every company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during the immediately preceding financial year shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director. Provided that where a company is not required to appoint an independent director under sub-section (4) of section 149, it shall have in its Corporate Social Responsibility Committee two or more directors.
- (2) The Board's report under sub-section (3) of section 134 shall disclose the composition of the Corporate Social Responsibility Committee.
- (3) The Corporate Social Responsibility Committee shall (a) formulate and recommend to the Board, a Corporate Social Responsibility Policy which shall indicate the activities to be undertaken by the company in areas or subject, specified in Schedule VII; (b) recommend the amount of expenditure to be incurred on the activities referred to in clause (a); and (c) monitor the Corporate Social Responsibility Policy of the company from time to time.

⁴ Companies (Corporate Social Responsibility Policy) Rules 2014, rule 2(c).

- (4) The Board of every company referred to in sub-section (1) shall,—(a) after taking into account the recommendations made by the Corporate Social Responsibility Committee, approve the Corporate Social Responsibility Policy for the company and disclose contents of such Policy in its report and also place it on the company's website, if any, in such manner as may be prescribed; and (b) ensure that the activities as are included in Corporate Social Responsibility Policy of the company are undertaken by the company.
- (5) The Board of every company referred to in sub-section (1), shall ensure that the company spends, in every financial year, at least two per cent of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its Corporate Social Responsibility Policy: Provided that the company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for Corporate Social Responsibility activities: Provided further that if the company fails to spend such amount, the Board shall, in its report made under clause (o) of sub-section (3) of section 134, specify the reasons for not spending the amount. Explanation.—For the purposes of this section net profit shall not include such sums as may be prescribed, and shall be calculated in accordance with the provisions of section 198”⁵

Schedule VII, Companies Act, 2013:

“Activities which may be included by companies in their Corporate Social Responsibility Policies Activities relating to:—

- (i) Eradicating hunger, poverty and malnutrition, promoting health care including preventive health care and sanitation including contribution to the Swach Bharat Kosh set-up by the Central Government for the promotion of sanitation] and making available safe drinking water.
- (ii) promoting education, including special education and employment enhancing vocation skills especially among children, women, elderly and the differently abled and livelihood enhancement projects.
- (iii) promoting gender equality, empowering women, setting up homes and hostels for women and orphans; setting up old age homes, day care centres

⁵ The Companies Act, 2013, No. 18, Acts of Parliament, 2013 (India), s.135.

- and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups.
- (iv) ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources and maintaining quality of soil, air and water including contribution to the Clean Ganga Fund set-up by the Central Government for rejuvenation of river Ganga.
 - (v) protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art; setting up public libraries; promotion and development of traditional art and handicrafts;
 - (vi) measures for the benefit of armed forces veterans, war widows and their dependents;
 - (vii) training to promote rural sports, nationally recognised sports, paralympic sports and olympic sports
 - (viii) contribution to the prime minister's national relief fund or any other fund set up by the central govt. for socio economic development and relief and welfare of the schedule caste, tribes, other backward classes, minorities and women;
 - (ix) Contribution to incubators funded by Central Government or State Government or any agency or Public Sector Undertaking of Central Government or State Government, and contributions to public funded Universities, Indian Institute of Technology (IITs), National Laboratories and Autonomous Bodies (established under the auspices of Indian Council of Agricultural Research (ICAR), Indian Council of Medical Research (ICMR), Council of Scientific and Industrial Research (CSIR), Department of Atomic Energy (DAE), Defence Research and Development Organisation (DRDO), Department of Biotechnology (DBT), Department of Science and Technology (DST), Ministry of Electronics and Information Technology) engaged in conducting research in science, technology, engineering and medicine aimed at promoting Sustainable Development Goals (SDGs).
 - (x) rural development projects

- (xi) slum area development. Explanation- For the purposes of this item, the term slum area shall mean any area declared as such by the Central Government or any State Government or any other competent authority under any law for the time being in force.
- (xii) disaster management, including relief, rehabilitation and reconstruction activities”⁶

III. CLARIFICATIONS, AMENDMENTS AND INITIATIVES TAKEN BY THE GOVERNMENT WITH REFERENCE TO CSR DURING COVID-19

Clarifications by Ministry of Corporate Affairs:

The Ministry of Corporate Affairs (MCA) published several circulars and office memorandums to provide clarifications with regards to CSR during the COVID-19 pandemic, which are as follows:

(i) General Circular No. 10/2020 dated 23.03.2020:

“Keeping in view the spread of novel Corona Virus (COVID-19) in India, its declaration as pandemic by the World Health Organization (WHO), and, decision of Government of India to treat it as a notified disaster, it is hereby clarified that spending of CSR funds for COVID- 19 is an eligible CSR activity. Further, 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”.⁷

(ii) Office Memorandum dated 28.03.2020:

“The Government of India has set up the Prime Minister’s Citizen Assistance and Relief in Emergency Situations Fund’ (PM CARES Fund) with the primary objective of dealing with any kind of emergency or distress situation such as that posed by COVID 19 pandemic. Further, Item no. (viii) of the Schedule VII of the Companies Act, 2013, which enumerates activities that may be undertaken by companies in discharge of their CSR obligations, inter

⁶ *Id.* at Schedule VII.

⁷ *Clarification for spending funds of CSR for COVID-19*, MINISTRY OF CORPORATE AFFAIRS (No. 10/2020, Mar. 23, 2020), http://mca.gov.in/Ministry/pdf/Covid_23032020.pdf.

alia provides that contribution to any fund set up by the Central Government for socio-economic development and relief qualifies as CSR expenditure. The PM-CARES Fund has been set up to provide relief to those affected by any kind of emergency or distress situation. Accordingly, it is clarified that any contribution made to the PM CARES Fund shall qualify as CSR expenditure under the Companies Act 2013.”⁸

(iii) General Circular No. 15/2020⁹ dated 10.04.2020 provided clarifications by way of frequently asked questions on the CSR expenditures in relation to COVID-19 activities. It clarified as to what activities would or would not be considered as an eligible CSR activity. The collective understanding that can be derived from these circulars is:

Activities Considered as eligible CSR Expenditure:

- Contributions made to the Prime Minister’s Citizen Assistance and Relief in Emergency Situations (PM-CARES) Fund;
- Contributions made to any State Disaster Management Authority for the purpose of COVID-19;
- Expenditure from the funds allocated towards CSR on activities related to COVID-19 vis-à-vis item nos. (i) and (xii) of the Schedule VII of the Companies Act, 2013;
- Any ex-gratia payment made on a one time exceptional basis to the temporary or casual workers or daily wage workers with an objective to fight COVID-19 provided such payment is over and above the actual wages along with an explicit declaration by the Board and certified by the statutory auditor.

Activities not considered as eligible CSR Expenditure:

- Contributions made towards Relief Funds set up by Chief Ministers of various States or any State Relief Fund set up for the purpose of COVID-19;
- Salary or wages paid to the employees and other workers including contract labour;
- Wages paid to the temporary or casual or daily wage workers.

The Taxation And Other Laws (Relaxation Of Certain Provisions) Ordinance, 2020¹⁰

⁸ Clarification on contribution to PM CARES Fund as eligible CSR activity under item no. (viii) of the Schedule VII of Companies Act, 2013, MINISTRY OF CORPORATE AFFAIRS (Mar. 28, 2020), http://mca.gov.in/Ministry/pdf/Circular_29032020.pdf.

⁹ COVID-19 related Frequently Asked Questions (FAQs) on Corporate Social Responsibility (CSR), MINISTRY OF CORPORATE AFFAIRS (No. 15/2020, Apr. 10, 2020), http://mca.gov.in/Ministry/pdf/Notification_10042020.pdf.

¹⁰ The Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020, No. 2, 2020 (India).

In order to provide relaxation towards the provisions of certain Acts during the pandemic, The Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 was promulgated by the President of India. By way of the said Ordinance, PM CARES Fund was inserted along with the Prime Minister National Relief Fund in Sub-clause (i) of Clause (23C) of Section 10 of the Income Tax Act, 1961. Further, PM CARES Fund was also inserted in Sub-clause (iiia) of Clause (a) of Sub-section (2) of Section 80G of the Income Tax Act, 1961 by way of the said Ordinance. Resultantly, a 100% tax deduction benefit shall be available to the contributions made towards the Fund.

Constitution of PM CARES Fund

In order to battle the COVID-19 pandemic or other distress situations and provide assistance and relief to the affected people in such times, a public charitable trust namely, Prime Minister's Citizen Assistance and Relief in Emergency Situations (PM-CARES) Fund was constituted on 28th March 2020. According to the PM CARES Portal, the said Fund has been constituted to ensure the following objectives:

- (i) "To undertake and support relief or assistance of any kind relating to a public health emergency or any other kind of emergency, calamity or distress, either man-made or natural, including the creation or upgradation of healthcare or pharmaceutical facilities, other necessary infrastructure, funding relevant research or any other type of support.
- (ii) To render financial assistance, provide grants of payments of money or take such other steps as may be deemed necessary by the Board of Trustees to the affected population.
- (iii) To undertake any other activity, which is not inconsistent with the above Objects."¹¹

The Board of Trustees of the Fund consists of an ex-officio Chairperson, three ex-officio trustees and three other trustees acting in pro-bono capacity who shall be nominated by the Chairperson. The Prime Minister of India acts as the ex-officio Chairperson of the Fund whereas the positions of ex-officio Trustees are held by the Minister of Defence, Minister of Home Affairs and Minister of Finance (Government of India). The Fund involves no budgetary backup and is open to receive contributions made by organizations or individuals which are voluntary in nature. A 100% tax deduction benefit shall be available to the

¹¹ *About PM Cares Fund*, PM CARES PORTAL, https://www.pmcars.gov.in/en/web/page/about_us (last visited Apr. 20, 2020).

contributions made towards the Fund. Further, as clarified by the Ministry of Corporate Affairs (MCA), any expenditure made towards the PM CARES Fund would be considered as an eligible Corporate Social Responsibility (CSR) activity under the Companies Act, 2013. An exemption has been provided to the Fund under the Foreign Contribution (Regulation) Act, 2010. Thus, a separate account has been created in order to receive foreign contributions from organizations and individuals for the said purposes.

Considering the urgent need of the hour, when a vast majority of population in India is suffering, the Fund received huge contributions by individuals and organizations. These contributions have made been towards the present unanticipated pandemic to help the affected people in India. Companies in India have donated considerable amount of their profits towards the PM CARES Fund in furtherance of fulfilling their responsibility towards the society. Both public as well private organizations have donated generously to the PM-CARES Fund. Some of the major contributions towards the PM CARES Fund includes, Tata Sons and Tata Group's ₹ 500 crores, Reliance Industries' ₹ 500 crores, National Thermal Power Corporation of India's ₹ 257.5 crore, Larsen and Toubro's ₹150 crores, REC Ltd.'s ₹ 150 crore, Infosys's ₹ 100 crores to name a few. Out of the huge contributions received by the PM CARES Fund to combat the pandemic, the Fund's Trust decided to utilize and allocate such funds in the following manner:

“Out of the Rs 3100 crore, a sum of approximately Rs 2,000 crore will be earmarked for the purchase of ventilators, Rs 1,000 crores will be used for care of migrant labourers and Rs 100 crores will be given to support vaccine development.”¹²

IV. INITIATIVES TAKEN BY COMPANIES IN INDIA DURING COVID-19

FSG, a consulting firm established by Michael E. Porter, Professor in Harvard Business School, and Mark Kramer, observed, “Private sector can play a critical role in helping address the world's social and environmental challenges. Corporations, through their core business and their philanthropic activities, can help address social and environmental issues in ways that strengthen their competitive positioning and profitability.”¹³ In the bigger picture, it has not just been the private sector that has played a key role to provide aid to the people of India during the pandemic. It is the joint effort and collaboration of the

¹² *PM CARES Fund Trust Allocates Rs. 3100 Crore for Fight against COVID-19*, PM INDIA PORTAL (May 13, 2020), https://www.pmindia.gov.in/en/news_updates/pm-cares-fund-trust-allocates-rs-3100-crore-for-fight-against-covid-19/?comment=disable.

¹³ *Corporate/CSR*, FSG, <https://www.fsg.org/areas-of-focus/corporate-philanthropy-csr> (last visited Apr. 21, 2020).

Government, the public and private sectors, NGO's and other individuals who have joined together to provide aid and assistance to the people suffering in India. Given below are some of the contributions and initiatives taken by the companies in various industries in the wake of the un-anticipated pandemic to help the people in India:

- **Food and Beverage Industry:** According to the Press Centre of Coca Cola¹⁴, The Coca Cola system in India, which is the philanthropic arm of The Coca-Cola Company, is pledging a contribution of ₹ 100 crore to tide over the impact of COVID-19 outbreak in India, assisting healthcare infrastructure enhancement, provisioning for Personal Protective Equipment (PPE), providing food and hygiene essentials, and beverage distribution.
- **Healthcare Industry:** According to Apollo Hospital's News Centre¹⁵, in order to protect and assist the people of India during the pandemic, an initiative namely, Project Kavach, was announced with an aim to provide an e-self-assessment system, information related to preventive measures, availability of quarantine rooms, hospital beds etc. Further, an isolation initiative namely, "Project Stay I" was launched by the Apollo Chain in collaboration with State Bank of India, Hindustan Unilever, Deutsche Bank, Oyo Rooms, Lemon Tree, Ginger hotels and Zomato.
- **Technology Industry:** According to HCL Foundation's Response to COVID-19 Portal¹⁶, a COVID-19 Online Academy by Sphere India working to provide training assistance to frontline workers was backed by the HCL Foundation, the CSR arm of HCL, together with UNICEF and WHO. Further, ventilators were pledged by HCL to Tamil Nadu and Andhra Pradesh Government. HCL also distributed around 1 lakh PPE kits to the State of Uttar Pradesh, 15000 face masks to the Noida Authority to ensure the health safety of the sanitation workers in Gautam Buddha Nagar and 100 kits for the front line workers like police staff and NGO volunteers in Chennai.
- **Multi-Purpose Groups:**
 - **Tata Group:** According to the Newsroom Portal of Tata Group¹⁷, Tata Trusts (India's oldest philanthropic organization) pledged to protect and provided assistance

¹⁴ *Pledging Support Towards Covid-19 Relief Measures*, COCA-COLA INDIA, <https://www.coca-colaindia.com/newsroom/pledging-support-towards-covid-19-relief-measures> (last visited Apr. 28, 2020).

¹⁵ *Apollo Hospitals Group has launched Project Kavach to tackle the COVID-19 pandemic*, APOLLO HOSPITALS (Mar. 26, 2020), <https://www.apollohospitals.com/apollo-in-the-news/apollo-hospitals-group-has-launched-project-kavach-to-tackle-the-covid-19-pandemic>.

¹⁶ *HCL's Response To Covid-19*, HCL FOUNDATION, <https://www.hclfoundation.org/hcls-response-to-covid19> (last visited May 15, 2020).

¹⁷ *Tata Group Covid-19 Response*, TATA, <https://www.tata.com/newsroom/covid19> (last visited May 12, 2020).

to affected communities by committing ₹ 500 Crores for various purposes like providing Personal Protective Equipments (PPE) for the frontlines warriors in the health care sectors, testing kits, setting up facilities for treating patients suffering due to COVID-19. Further, in order to support the activities related to COVID-19 and help the society in such times, an additional contribution of ₹ 1000 Crores was announced by the Tata Sons. According to the Media Portal of Tata Power¹⁸, homemade cloth masks were produced by the members of Tata Power's 'Dhaaga' initiative for the migrant and affected population in various states across India. Such masks were made in accordance with the requirements of the government and supported the CSR Initiatives of the Company.

- **Reliance Industries Ltd.:** Reliance made a huge contribution of ₹ 500 crore to PM CARES, ₹ 5 crore towards the Chief Minister's Relief Fund of Maharashtra and Gujarat Governments to support the combat against the coronavirus. RIL and Reliance Foundation made significant efforts towards the battle against the coronavirus like:
 - "India's first 100 bed exclusive Covid-19 Hospital geared up in just two weeks to handle Covid-19 patients
 - One Lakh masks daily for health-workers and caregivers
 - Thousands of PPEs daily for health-workers and caregivers
 - Free Fuel across the country to notified emergency response vehicles
 - Reliance Retail providing Essential supplies daily for millions of Indians via stores and home deliveries."¹⁹
- **Infosys Ltd:** Infosys Foundation, the CSR arm of Infosys, committed ₹ 100 crores to combat the COVID-19 in India. Out of ₹ 100 Crores, ₹ 50 crores were contributed to the PM CARES Fund. Infosys aimed to use its funds for the following purposes:
 - "To expand hospital capacity for treatment and enable hospital stays for COVID-19 patients across India, especially ones belonging to the economically weaker sections of the society

¹⁸ *Tata Power's 'Dhaaga' extends support by supplying more than 1,20,000 face masks for COVID-19*, TATA POWER, (Apr. 13, 2020), <https://www.tatapower.com/media/PressReleaseDetails/1766/tata-powers-dhaaga-extends-support-by-supplying-more-than-120000-face-masks-for-covid-19>.

¹⁹ *RIL's Response To Covid-19*, RELIANCE, <https://www.ril.com/ResponsetoCOVID-19.aspx> (last visited May 16, 2020).

- To provide ventilators, testing kits, and Personal Protective Equipment (PPE) like masks, and other protective gear for frontline healthcare workers
 - To ensure better access to food and nutrition for the underprivileged section of the society, that is bearing the adverse economic impact of the current situation.”²⁰
- **Hindustan Unilever Limited (HUL):** According to the news portal of HUL²¹, HUL conducted a number of activities to combat against the novel coronavirus. It donated soaps, hand wash, sanitizers, health kits and food items for COVID-19 patients, low-income families and front line health officials. With the help of Project Prabhat, 1 Lakh migrant labour families were provided food kits and essential hygiene products by HUL. HUL further catered vulnerable children between the age 3 to 10 years in New Delhi by distributing Horlicks biscuits and sachets with the help of 10 government centres.

The above mentioned initiatives are only a small portion of the plethora of initiatives taken up by companies in India during the pandemic. Further, these initiatives indicate that the companies have not only restricted themselves towards their corporate social responsibility but have also gone way beyond such responsibility to support the society and help the people in need in such unprecedented times.

V. ISSUES AND CHALLENGES DURING COVID-19

The current global pandemic has already proven itself to be a challenge for the Government, the companies as well as the people of India. In response to the battle against the pandemic, the Central Government, State Governments, companies and various other organizations have been introducing a number of initiatives from time to time to provide support and aid for the people of India, yet there have been some loopholes in between. Some of them, as observed, are:

- (i) **Utilization of contributions made by companies to the funds set up by Government:** Activity (viii) of Schedule VII of the Companies Act, 2013, provides, “Contribution to the prime minister's national relief fund or any other fund set up by the

²⁰ *Infosys Response To Covid-19*, INFOSYS (Mar. 30, 2020), <https://www.infosys.com/newsroom/press-releases/2020/commits-100-crore-towards-covid-19.html>.

²¹ *Committed Towards Combating COVID-19*, HINDUSTAN UNILEVER LIMITED, <https://www.hul.co.in/news/news-and-features/2020/committed-towards-combating-covid-19.html> (last visited May 29, 2020).

central govt. for socio economic development and relief and welfare of the schedule caste, tribes, other backward classes, minorities and women”²² to be an eligible activity towards CSR. The Ministry of Corporate Affairs also clarified that any contribution made to PM CARES Fund would amount to an activity under item (viii) of the Schedule. There are certain benefits of such centralised contributions like government being the apex authority, has the power to reach to every corner of the Country when a company might be restricted only to the area in which it is located. The question that whether the contributions made to such centralized funds are reaching every concerned person and are reaching timely to the ones who needs assistance, is unsettled as time and again the sufferings of the people is being brought into light.

- (ii) **Inadequate Support to various CM’s Relief Fund:** A vast majority of companies contributed towards centralized fundings like the PM-CARES to support their responsibility towards the society whereas only a few contributed towards other funds like the relief funds set up by the Chief Ministers of various states. The reason for this might be that contribution made to such funds like ‘Chief Minister’s Relief Fund’ or ‘State Relief Fund shall not qualify as admissible CSR expenditure as clarified by The Ministry of Corporate Affairs wide General Circular No. 15/2020²³ dated 10.04.2020.
- (iii) **Lack of Reach:** The companies as well as the Government of India have made tremendous efforts to reach to the affected and underprivileged people yet it has been practically impossible to provide aid and assistance to every person affected by the pandemic. The initiatives so made do not seem to have established the last mile connection taking into consideration the problems faced by the domestic migrants, non-availability of temporary shelters and transportation for their relocation, in-adequacy of meals and other health concerns. Whereas on the other hand, considerate measures have been taken to bring back the Indian citizens stranded in other countries.
- (iv) **Lack of infrastructure and administration:** One thing that has been clearly evident in the wake of pandemic is that India lacks infrastructure to deal with emergencies. Except a few, various companies have instead of collaborating with district administrations, collaborated with their CSR arms or partner NGO to provide aid leading to an issue of lack of administration.

²² *Supra* note 5.

²³ *Supra* note 8.

- (v) **Workmen Lay-off:** Food delivery company Zomato announced to lay off around 13% of its workforce in a note named, A more focused Zomato, by its CEO Deepinder Goyal, which stated:

“Multiple aspects of our business have changed dramatically over the last couple of months and many of these changes are expected to be permanent. While we continue to build a more focused Zomato, we do not foresee having enough work for all our employees. We owe all our colleagues a challenging work environment, but we won’t be able to offer that to ~13% of our workforce going forward”.²⁴

Irrespective of pay cuts for continuing employees, compensatory provisions for the ones being laid-off, Zomato announced that its financial runway looks solid and ran various initiatives related to COVID-19 like Food Security, Feeding Foundation etc. Thus, somewhere giving preference to their social image by way of such activities over their own employees.

- (vi) **Majority of contributions short-term in nature:** A major share of contributions being made today is to cater the short term and immediate needs of the people suffering in India like providing food, ration kits, temporary staying facilities etc. Thus, such activities can be said to be done by way of charity as they are not being done with a long term goal of fulfilling the corporate social responsibility.

VI. SUGGESTIONS

Companies in India have not merely contributed but have contributed at length to help the society in this unprecedented outbreak of COVID-19 over and above the efforts and initiatives taken by the Government of India. Organizations like Tata Trust, Azim Premji Foundation have not only made a mark in India, but also been globally recognized amongst the top funders in the world. Yet, the responsibility of helping and providing assistance to the 2nd most populated country in the world cannot be on the shoulders of a few. The need of the hour lies in the companies joining hands with the Government and collaborating with one another to combat together against the pandemic. For companies to be able to accomplish this objective and overcome the challenges previously discussed, the following suggestions can be considered to make the contributions made by the companies towards the society an important and significant tool in this global fight:

²⁴ A more focused Zomato, ZOMATO (May 15, 2020), <https://www.zomato.com/blog/focused>.

- **Identify, address and cater the needs most affected groups:** With casual laborers and migrant class suffering the most for the basic essential needs like food, shelter at the present day, it clearly depicts that the situation wasn't envisaged properly. In such scenarios, Corporates can come into action and aim at providing aid to such class of people at the ground level. The CSR arms should collaborate with government bodies and district administration to utilize government schools since all the schools are closed across India for providing shelters and kitchen facilities to the most affected in their respective areas.
- **Provision for equitable distribution of CSR Funds:** The present global pandemic was entirely unprecedented, thus no one could have prepared for in advance. Had there been provisions which mandated equal distribution of CSR funds amongst all the activities, the corporates might have been more prepared. In addition to this, funds like emergency relief funds must be created by each company or sector to provide additional assistance and support to the employees only in such unanticipated times and the same shall be considered as a CSR activity. On a similar note, Parul Soni, Global Managing Partner of Thinkthrough Consulting, advocates "A fund in the private sector to which companies can contribute a part of their CSR funds. He felt such funds can be used to provide income support to workers who lose their jobs due to pandemic-led shutdowns and demand contraction."²⁵
- **Provision to balance between employees and CSR in un-anticipated situations:** There exists a responsibility on the companies to contribute towards their social responsibility which also includes a responsibility towards their own employees. Yet, the industry witnessed companies laying off their workmen as certain industries have come to a standstill. Thus, changes must be introduced in the Companies Act, 2013, to bring under its purview un-anticipated situations whereby, a company meeting the threshold in previous years but unstable revenues in the current year, to utilize its CSR Funds towards the society along with or after fulfilling the obligations towards its employees in order to retain them from being laid off.
- **Provision for Cross-Company Aid:** Since the corporate social responsibility lies on the concept of give and take, a similar approach can be used by a company to provide assistance to another company in times of emergency like the present COVID-19 crisis.

²⁵ Tina Edwin, *How should India Inc deploy its CSR funds for Covid relief?*, THE HINDU BUSINESS LINE, Apr. 22, 2020, <https://www.thehindubusinessline.com/news/how-should-india-inc-deploy-its-csr-funds-for-covid-relief/article31163707.ece>.

CSR is an obligation which is placed on profit making entities which meets certain thresholds to contribute towards the society and people who are not in a position to manage their own selves due to various reasons one of them being non-availability of funds. On a similar approach, a change can be introduced in the Companies Act, 2013 whereby profit making companies can collaborate with loss bearing companies in case of emergency to provide assistance to them in routine activities like paying its employees. Such cross company aid can be construed as a CSR activity as it would be a step taken towards betterment of the society.

- **Collaborated efforts between companies, Governments and NGOs:** As it has been rightly observed, every contribution counts, yet a contribution which would be a joint effort of governments, companies, NGOs would be highly beneficial to the society at large. To make a joint effort, the Government by way of district administrations must connect with the companies located in each district or nearby districts which are willing to help the society and inform them about the requirements of people in that area. The companies further must connect with their CSR arms or NGOs in that district and deploy their CSR funds accordingly. Companies can also follow collaborating with other companies to ensure a joint effort along with the rightful utilization of their CSR Funds.
- **Support and assist small businesses:** In the current situation of lockdown when some small business activities have totally come to a halt and have been considerably affected due to the current economic situation. It is not only the responsibility of the government but also of profitable business groups to come forward to support and assist them on providing emergency funds to such businesses by way of financial rebuilding measures whereby corporates can give away funds in the form of easy loans to such businesses to help them come back to business.

VII. CONCLUSION

Corporate Social Responsibility, today, during the COVID-19 pandemic, has gone way beyond the traditional concept of philanthropy of merely donating money. CSR, at present, has become a fundamentally vital part for the companies. Companies have not restricted themselves to merely conducting their business operations and making profits, but have gone a step ahead to fulfill the responsibility which they have towards the citizens and the society in which they operate. At present, while the entire world is suffering due to the pandemic, involvement of the companies to support the society has become the need of the hour. The companies have not only acted to fulfill their social responsibility but have gone beyond such

responsibility by making voluntary consented efforts towards the society and performing plethora of initiatives to help the people in need. The Government on the other hand has taken a number of initiatives, yet it has been quite evident that the last mile connection has not been established. By setting up the PM CARES Fund to deal with emergencies like the present coronavirus pandemic, Government appealed to generously contribute towards it, calling the contributions made by companies towards the Fund to be eligible as a CSR Activity. The companies came to the help the people affected due to the pandemic and worked at the ground level by providing freshly cooked meals, ration kits, masks, sanitizers, Personal Protective Equipments (PPE) to not only the disadvantaged groups of the society but also to frontline warriors like police, doctors, nurses and others. Further, the companies also contributed whole heartedly towards the PM CARES Fund, thus going far ahead of their social responsibility to act as a helper in such times. Even Departments like the Revenue Department, Ministry of Finance appealed its officers and staff to contribute their one day's salary every month till March 2021 to the PM CARES Fund to aid the Government's efforts to fight the coronavirus pandemic. But the question that remains unanswered is the implementation of such contributions by the Government. The issue that, will the contributions made by the companies and their employees to the government created funds be deployed timely and whether the contributions so made would reach every such person who requires assistance, is of grave importance. The aid and assistance not reaching the affected population is apparent from the fact that the migrant class have resorted to moving towards their native places by foot, no place to live due to the hardship caused in such times and the death of the people while moving towards their way home. Rather than urging contributions for the fund by making such contributions to be counted as a CSR activity, Government could have motivated the companies to work at the ground level as the connection between the companies and the society already exists by way of their existing CSR initiatives.

Thus, in the wake of the coronavirus pandemic, companies have already gone way beyond their basic responsibility towards the society and have made sufficient efforts to aid and assist the affected people. Thus, it is concluded that the Industry and Corporate Sector have done and continue to do their part of contribution towards the society which needs to be coupled with sincere commitment of the government to step up and make efforts to ensure timely deployment and rightful utilization of the funds for the betterment of the society in meeting the hour of need and India's fight against the COVID-19 pandemic.
