CSR MADE EASY

Corporate Social Responsibility

Learning Series ◆ Vol.- I ◆ Issue - 3 ◆ 2015-16

OVERVIEW OF TAX IMPLICATION OF CSR EXPENDITURES

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A Joint Initiative of Samhita, SAGA & CAClubIndia.com

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OVERVIEW OF TAX IMPLICATION OF CSR EXPENDITURES

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Overview of Tax Implications of CSR Expenditures

Introduction

1.1.1 The Finance Act, 2014 has brought a very radical & far reaching amendment, as far as CSR expenditures are concerned.

1.1.2 There was a lot of expectation that as a corollary to the CSR related amendment in the Companies Act there will be a corresponding amendment in the Income Tax Act, 1961 allowing CSR expenditures as deductions under section 37.

1.1.3 On the contrary the Finance Act has proposed that CSR expenditure shall not be allowed as expenditure under section 37 of Income Tax Act, 1961. However, any CSR expenditure which is allowed as deduction under other sections such as section 30, 32, 35, 35AC, 80G etc. is permissible.

1.1.4 Now the tax treatment will be different for various types of permissible CSR activities. If the company directly undertakes CSR expenditures there will be no tax benefit, therefore, to spend 2% of CSR the company may lose the tax benefits available otherwise.

1.1.5 If the company undertakes CSR expenditures through 80G registered NGOs (including its own foundation) then to spend 2% of CSR the company shall have some tax benefit as such contribution provide 50% tax benefit.

1.1.6 Further, if a corporate undertakes CSR activities through Institutions registered under sections 35CCA, 35AC, 35CCC, 35CCD of the Income Tax Act, 1961 or through funds like Prime Minister Relief Fund, National Defence Fund having 100% tax benefit under section 80G then it will get 100% tax advantage therefore, Corporates would be more inclined to fund through such mode.

1.1.7 Further, if a corporate undertakes CSR activities through Institutions registered under sections 35 for scientific research or social research then it may get 125% to 175% tax advantage and will be most advantages for CSR, but the choice of activities will be reduced and the money will go towards research and not towards direct field level programmes.

Status Before Companies Act, 2013 & Finance Act, 2014

1.2.1 Before Companies Act, 2013 and Finance Act, 2014, the expenditure on CSR was not mandatory and there was no direct provision under Income Tax Act dealing with CSR expenditure.

1.2.2 Therefore all the voluntary expenditures incurred on CSR were claimed either u/s. 35(2AA) or 35AC or under Section 80G of the Income Tax Act and in most of the cases the CSR expenditures were claimed to be allowed u/s. 37(1) of the Income Tax Act, 1961.

1.2.3 However after Companies act 2013 CSR expenditure became mandatory and the tax treatment of CSR spends became contingent upon the Income Tax Act, 1961 and amendments thereof.

1.2.4 Hence, there was a lot of expectations from the Finance Act, 2014 and everybody expected that the CSR expenditure shall be allowed fully as it becomes a legal obligation/charge against income because of being mandatory in nature.

Section 37 and CSR Expenditures After Finance Act, 2014

1.3.1 On the contrary the Finance Act, 2014, instead of providing for a separate section for allowability of CSR expenditure, proposed that CSR expenditure shall not be allowed as expenditure under section 37 of Income Tax Act, 1961. However, any CSR expenditure which is allowable as deduction under other sections such as section 30, 32, 35, 35AC, 80G etc. is permissible.

1.3.2 The Finance Act, 2014 inserted a new Explanation in sub-section (1) of section 37 clarifying that for the purposes of sub-section (1) of the said section, 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 be an expenditure incurred by the assessee for the purposes of the business or profession. This amendment will take effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent years. The amended provisions are as under:

> 13. In section 37 of the Income-tax Act, in sub-section (1), the Explanation shall be numbered as Explanation 1 thereof and after Explanation 1 as so numbered, the following Explanation shall be inserted with effect from the 1st day of April, 2015, namely:—
>
> "Explanation 2.—For the removal of doubts, it is hereby declared that for the purposes of sub-section (1), 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 be an expenditure incurred by the assessee for the purposes of the business or profession.".

1.3.3 This amendment is a great set back and may defeat the real purpose of bringing CSR related amendments in the Companies Act, 2013. A corporate will now be motivated to contribute to those statutory funds where 100% deduction is available or to organisations registered under section 35 or 35AC of the Income Tax Act.

Clarification regarding Expenses under Other Sections

1.4.1 The amendment to section 37 by Finance Act, 2014 has been supported by an explanatory circular which clarifies that expenditures under other sections i.e. section 30 to 36 of the Income Tax Act shall be permissible. The text of the circular is provided in ***Annexure 1***. The relevant portion of the circular is as under:

CIRCULAR NO.1/2015 [F.NO.142/13/2014-TPL], DATED 21-1-2015

13. Corporate Social Responsibility (CSR)

13.1 Under the Companies Act, 2013 certain companies (which have net worth of Rs.500 crore or more, or turnover of Rs.1000 crore or more, or a net profit of Rs.5 crore or more during any financial year) are required to spend certain percentage of their profit on activities relating to Corporate Social Responsibility (CSR). Under the existing provisions of the Income-tax Act, expenditure incurred wholly and exclusively for the purposes of the business is only allowed as a deduction for computing taxable business income.

13.2 CSR expenditure, being an application of income, is not incurred wholly and exclusively for the purposes of carrying on business. As the application of income is not allowed as deduction for the purposes of computing taxable income of a company, amount spent on CSR cannot be allowed as deduction for computing the taxable income of the company. Moreover, the objective of CSR is to share burden of the Government in providing social services by companies having net worth/turnover/profit above a threshold. If such expenses are allowed as tax deduction, this would result in subsidizing of around one-third of such expenses by the Government by way of tax expenditure.

13.3 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. However, the CSR expenditure which is of the nature described in section 30 to section 36 of the Income-tax Act shall be allowed as deduction under those sections subject to fulfillment of conditions, if any, specified therein.

13.4 Applicability:—This amendment takes effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent years.

Overview of the Tax Implications of CSR expenditure after Finance Act, 2014

1.5.1 The only impact due amendment in Finance Act is specifically providing for that the CSR expenditure will not be allowed u/s. 37(1) of the Income Tax Act though CSR expenditure can be claimed as deduction in other sections like section 30, 31 32 of the Income Tax Act or u/s. 80G.

1.5.2 ***The basis of allowability of CSR expenditure u/s. 37(1) of the Income Tax Act, 1961 before Finance Act, 2014 :*** Historically it is well established by various judicial pronouncement that the CSR expenditures were allowed u/s 37 (1) of the Income tax act, 1961, only on the background that these expenditures were considered to be for the **purpose of business** or for **advancement of the business of the assessee**.

However Rule 4 of CSR Rule specifically provides that CSR activities will not include any activities undertaken in pursuance of normal course of business and therefore, to constitute a valid CSR expenditure, the expenditure cannot be in relation to or for advancement of businsess of the company.

Under this background the amendment in the Finance Act, 2014 seems to be clarificatory in nature as expenditure can be allowed to be deducted u/s. 37(1) only when it is incurred for the purpose of business.

1.5.3 ***Priority may shift to tax saving rather than need based CSR expenditure :*** CSR being a statutory requirement should have been treated as a valid charitable expenditure, otherwise it would be big disincentive to the Companies. Moreover, if the Income Tax regulations don't provide similar tax treatment to the various types of CSR expenditures or various modes of CSR expenditures, then the company would be motivated to undertake only those CSR activities or undertake CSR through modes under which they get maximum Tax benefits. For instance, Prime Minister Relief Fund, National Defence Fund or organisations notified under Section 35 or 35AC or 80G. Such organisations provide 100% tax benefit. It may be noted that only few organisations such as Prime Minister Relief Fund, National Defence Fund provide 100% benefit under Section 80G however, only 50% benefit is available to the donor in case of other NGOs registered under section 80G.

Hence the present tax provisions of differential tax statement of CSR expenditure may shift focus of the company to have a CSR policy on the basis of tax efficiency rather than need based CSR policy.

Comparative Analysis of Tax Implications

1.6.1 As discussed earlier the Finance Act, 2014 has brought a very radical & far reaching amendment, as far as CSR expenditures are concerned. The income tax regulations do not provide similar tax benefits to various types of expenditures permissible under Schedule VII. In this section a comparative table has been provided so that companies can leverage their priorities as well as the tax advantages.

Comparative Table of Tax Implication of CSR Expenditure

Description CSR expenditure incurred	No Deduction 100	Deduction u/s 80G 100	Deduction u/s. 35AC 100	Deduction u/s. 35(1)(iii) 100	Deduction u/s. 35(1)(ii) 100
Rate of Deduction while computing the total income	Nil	50	100	125	175
Deductible Amount	Nil	50	100	125	175
Tax Saving @ 33.99% due to allowability of CSR expenditure while computing total income	Nil	16.99	33.99	42.49	59.48

1.6.2 For the above table the corporate tax rates have been taken at 33.99% (30 Basic Tax Rate + 10% Surcharge+ 3% EC/SHEC). The saving by way of tax benefit shall change proportionately with the change of tax rates.

1.6.3 Hence the tax saving will be different for various purpose of activities as and for various mode of CSR activity as mentioned herein below :

1.6.4 If the company directly undertakes CSR expenditure, then these expenditures are not deductible while computing total income, meaning thereby there will not be any tax saving for CSR activities.

1.6.5 If the company undertakes CSR expenditures through 80G registered NGOs (including its own foundation) then the company can save 16.99% of the contribution of CSR expenditure by way of lower tax payment in comparison to tax payment that would have made if the CSR expenditure would have incurred directly.

1.6.6 Further, if a corporate undertakes CSR activities through Institutions registered under sections 35CCA, 35AC, 35CCC, 35CCD or through funds like Prime Minister Relief Fund, National Defence Fund having 100% tax benefit under section 80G then the company can save 33.99% of the contribution of CSR expenditure by way of lower tax payment in comparison to tax payment that would have made if the CSR expenditure would have incurred directly.

1.6.7 Further, if a corporate undertakes CSR activities through Institutions registered under section 35(1)(ii) for Scientific Research or u/s. 35(1)(iii) for Social Research then the company can save 59.48% or 42.48% of the contribution of CSR expenditure by way of lower tax payment in comparison to tax payment that would have made if the CSR expenditure would have incurred directly.

Overview of various sections under which CSR Expenditures can be claimed

Section under Income Tax Act 1961	*Areas of expenditure*	*Amount of deduction under Income Tax Act*
Section 35(2AA)	• Any sum to the National Laboratory, University or an Indian Institute of Technology or a specified person. Sum to be used for scientific research undertaken under an approved programme approved by the prescribed authority;	**200%** of the sum paid
35AC	• Any sum paid to a public sector company or a local authority or to an association or institution approved by the National Committee for carrying out any eligible project or scheme mainly concerning the upliftment of rural areas	**100%** of the sum paid
35CCA	• Any sum paid to an association or institution, which has as its object of undertaking any programme of rural development or training of persons for implementing programmes of rural development as approved by the prescribed authority • Any sum paid to the prescribed funds as notified by the Central Government;	**100%** of the sum paid
35CCC	• Any expenditure incurred on agricultural extension project notified by the Board	**150%** of the expenditure incurred.
35CCD	• Any expenditure incurred (not being expenditure in the nature of cost of any land or building) on any skill development project notified by the Board	**150%** of the expenditure incurred

80G Deduction :

Donee	*Maximum Limit*	*Amount of deduction*
1ST CATEGORY : (Prime Minister's Drought Relief Fund, Prime Minister's National Relief Fund, Swachh Bharat Kosh, etc)	No limit	100%
2ND CATEGORY : (Jawaharlal Nehru Memorial Fund, Rajiv Gandhi Foundation, etc.) [Reconfirm whether the purposed activity covers under Schedule VII of CSR Rules]	No limit	50%
3RD CATEGORY : Any other fund/institution registered under section 80G	10% of the total income (as defined for this purpose)	50%
4TH CATEGORY : Donation to 80G registered trust for "promoting Family Planning".	10% of the total income (as defined for this purpose)	100%

1.7.1 As the clarification on allowability of CSR expenditure also indicated that the CSR expenditure can also be claimed in Section 32 to 36 of the Income Tax Act, meaning thereby the expenditure can also be claimed u/s. 30, 31 & 32. Hence it needs to be explored if the CSR expenditure includes any payment of rent for the building (say hospital building or educational building) then whether this part of CSR expenditure can be fully claimed u/s. 30.

1.7.2 It also needs to be debated whether CSR expenditure (say education program) has undertaken in a building owned by the company then whether the depreciation shall constitute CSR expenditure and can be claimed as deductible u/s. 32.

Conclusion

1.8.1 Hence to make the CSR policy tax efficient it is required to explore the possibility of taxability of CSR expenditure under various available sections under which CSR expenditure can be claimed and this required professional input and further debate.

Annexure- 1

FINANCE (NO.2) ACT, 2014 - EXPLANATORY NOTES TO THE PROVISIONS OF SAID ACT

CIRCULAR NO.1/2015 [F.NO.142/13/2014-TPL], DATED 21-1-2015

6. Clarification in respect of section 10(23C) of the Income-tax Act

6.1 The provisions of sub-clause (iiiab) and (iiiac) of section 10(23C) of the Income-tax Act provide exemption, subject to various conditions, in respect of income of certain educational institutions, universities and hospitals which exist solely for educational purposes or solely for philanthropic purposes, and not for purposes of profit and which are wholly or substantially financed by the Government.

6.2 Absence of a definition of the phrase "substantially financed by the Government" had led to litigation and varying decisions of judicial authorities who had, for this purpose, relied upon various other provisions of the Income-tax Act and other Acts. Thus, there has been lack of certainty in this regard.

6.3 Therefore, clause (23C) of section 10 has been amended by inserting an Explanation below sub-clause (iiiac) of the said clause. It provides that if the Government grant to a university or other educational institution, hospital or other institution referred to in section 10(23C)(iiiab) or 10(23C)(iiiac) during any previous year exceeds a prescribed percentage of the total receipts (including any voluntary contributions), of such university or other educational institution, hospital or other institution, as the case may be, then such university or other educational institution, hospital or other institution shall be considered as being substantially financed by the Government for that previous year. Vide notification No. 79 /2014 dated 12.12.2014, Rule 2BBB has been inserted in the Income-tax Rules. The said Rule provides that any university or other educational institution, hospital or other institution referred to in sub-clauses (iiiab) and (iiiac) of clause (23C) of section 10 of the Income-tax Act shall be considered as being substantially financed by the Government for any previous year if the Government grant to such university, hospital, or institution exceeds 50 percent of its total receipts, including any voluntary contributions, during the said previous year.

6.4 ***Applicability:***—This amendment takes effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent assessment years.

7. Rationalisation of taxation regime in the case of charitable trusts and institutions

7.1 The provisions of section 11 of the Income-tax Act provide for exemption to trusts or institutions in respect of income derived from property held under trust and voluntary contributions subject to various conditions contained in the said section. The primary condition for grant of exemption is that the income derived from property held under trust should be applied for the charitable purposes, and where such income cannot be applied during the previous year, it has to be accumulated in the modes prescribed and applied for such purposes in accordance with various conditions provided in the section. If the accumulated income is not applied in accordance with the conditions provided in the said section, then such income is deemed to be taxable income of the trust or institution. Section 13 of the Income-tax Act provides for the circumstances under which exemption under section 11 or 12 of the said Act in respect of whole or part of income would not be available to a trust or institution.

7.2 The sections 11, 12, 12A, 12AA and 13 of the Income-tax Act constitute a complete code governing the grant, cancellation or withdrawal of registration, providing exemption to income, and also the conditions subject to which a charitable trust or institution is required to function in order to be eligible for exemption. They also provide for withdrawal of exemption either in part or in full if the relevant conditions are not fulfilled.

7.3 Several issues had arisen in respect of the application of exemption regime to trusts or institutions in respect of which clarity in law was required.

7.4 The first issue was regarding the interplay of the general provision of exemptions which are contained in section 10 of the Income-tax Act vis-a-vis the specific and special exemption regime provided in sections 11 to 13 of the said Act. As indicated above, the primary objective of providing exemption in case of charitable institution is that income derived from the property held under trust should be applied and utilised for the object or purpose for which the institution or trust has been established. In many cases it had been noted that trusts or institutions which are registered and have been availing benefits of the exemption regime do not apply their income, which is derived from property held under trust, for charitable purposes. In such circumstances, when the income becomes taxable, a claim of exemption under general provisions of section 10 in respect of such income is preferred and tax on such income is avoided. This defeats the very objective and purpose of placing the conditions of application of income etc. in respect of income derived from property held under trust in the first place.

7.4.1 Sections 11, 12 and 13 of the Income-tax Act are special provisions governing institutions which are being given benefit of tax exemption. It is therefore imperative that once a person voluntarily opts for the special dispensation it should be governed by these specific provisions and should not be allowed flexibility of being governed by other general provisions or specific provisions at will. Allowing such flexibility has undesirable effects on the objects of the regulations and leads to litigation.

7.4.2 Similar situation existed in the context of section 10(23C) of the Income-tax Act which provides for exemption to funds, institution, hospitals, etc. which have been granted approval by the prescribed authority. The provision of section 10(23C) also have similar conditions of accumulation and application of income, investment of funds in prescribed modes etc.

7.4.3 Therefore, the Income-tax Act has been amended to provide specifically that where a trust or an institution has been granted registration for purposes of availing exemption under section 11, and the registration is in force for a previous year, then such trust or institution cannot claim any exemption under any provision of section 10 [other than that relating to exemption of agricultural income and income exempt under section 10(23C)] of the Income-tax Act. Similarly, entities which have been approved or notified for claiming benefit of exemption under section 10(23C) of the Income-tax Act would not be entitled to claim any benefit of exemption under other provisions of section 10 of the said Act (except the exemption in respect of agricultural income).

7.5 The second issue which had arisen was that the existing scheme of section 11 as well as section 10(23C) of the Income-tax Act provided exemption in respect of income when it is applied to acquire a capital asset. Subsequently, while computing the income for purposes of these sections, notional deduction by way of depreciation etc. was being claimed and such amount of notional deduction was not being applied for charitable purpose. As a result, double benefit was being claimed by the trusts and institutions. Therefore, these provisions were required to be rationalised to ensure that double benefit is not claimed and such notional amount does not get excluded from the condition of application of income for charitable purpose.

7.5.1 Accordingly, the Income-tax Act has been amended to provide that under section 11 and section 10(23C), income for the purposes of its application shall be determined without any deduction or allowance by way of depreciation or otherwise in respect of any asset, acquisition of which has been claimed as an application of income under these sections in the same or any other previous year.

7.6 ***Applicability:***—These amendments take effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent assessment years.

8. Applicability of the registration granted to a trust or institution to earlier years

8.1 The provisions of section 12A of the Income-tax Act, before amendment by the Act, provided that a trust or an institution can claim exemption under sections 11 and 12 only after registration under section 12AA of the said Act has been granted. In case of trusts or institutions which apply for registration after 1st June, 2007, the registration shall be effective only prospectively.

8.2 Non-application of registration for the period prior to the year of registration caused genuine hardship to charitable organisations. Due to absence of registration, tax liability is fastened even though they may otherwise be eligible for exemption and fulfil other substantive conditions. However, the power of condonation of delay in seeking registration was not available.

8.3 In order to provide relief to such trusts and remove hardship in genuine cases, section 12A of the Income-tax Act has been amended to provide that in a case where a trust or institution has been granted registration under section 12AA of the Income-tax Act, the benefit of sections 11 and 12 of the said Act shall be available in respect of any income derived from property held under trust in any assessment proceeding for an earlier assessment year which is pending before the Assessing Officer as on the date of such registration, if the objects and activities of such trust or institution in the relevant earlier assessment year are the same as those on the basis of which such registration has been granted.

8.4 Further, it has been provided that no action for reopening of an assessment under section 147 of the Income-tax Act shall be taken by the Assessing Officer in the case of such trust or institution for any assessment year preceding the first assessment year for which the registration applies, merely for the reason that such trust or institution has not obtained the registration under section 12AA for the said assessment year.

8.5 However, the above benefits would not be available in the case of any trust or institution which at any time had applied for registration and the same was refused under section 12AA of the Income-tax Act or a registration once granted was cancelled.

8.6 ***Applicability:***—These amendments take effect from 1st October, 2014.

9. Cancellation of registration of the trust or institution in certain cases

9.1. The provisions of section 12AA of the Income-tax Act, before amendment by the Act, provided that the registration once granted to a trust or institution shall remain in force until it is cancelled by the Commissioner. The Commissioner could cancel the registration under two circumstances:

(*a*) the activities of a trust or institution are not genuine, or;

(*b*) the activities are not being carried out in accordance with the objects of the trust or institution.

9.1.1 The Commissioner was empowered to cancel the registration only if either or both of the above conditions were satisfied, and not otherwise.

9.2 There have been cases where trusts, particularly in the year in which they had substantial income claimed to be exempt under other provisions of the Income-tax Act though they deliberately violated the provisions of section 13 of the said Act by investing in modes other that specified modes, etc. Similarly, there have been cases where the income is not properly applied for charitable purposes or is diverted for the benefit of certain interested persons. However, due to restrictive interpretation of the powers of the Commissioner under the said section 12AA, registration of such trusts or institutions continued to be in force and these institutions continued to enjoy the beneficial regime of exemption.

9.3 Whereas under section 10(23C) of the Income-tax Act, which also allows similar benefits of exemption to a fund, Institution, University etc, the power of withdrawal of approval is vested with the prescribed authority if such authority is satisfied that such entity has not applied income or made investment in accordance with provisions of said section 10(23C) or the activities of such entity are not genuine or are not being carried out in accordance with all or any of the conditions subject to which it was approved.

9.4 Therefore, in order to rationalise the provisions relating to cancellation of registration of a trust, section 12AA of the Income-tax Act has been amended to provide that where a trust or an institution has been granted registration, and subsequently it is noticed that its activities are being carried out in such a manner that,—

(*i*) its income does not enure for the benefit of the public;

(*ii*) it is for benefit of any particular religious community or caste (in case it is established after commencement of the Income-tax Act, 1961);

(*iii*) any income or property of the trust is used or applied directly or indirectly for the benefit of specified persons like author of trust, trustees etc.; or

(*iv*) its funds are not invested in specified modes,

then the Principal Commissioner or the Commissioner may cancel the registration, if such trust or institution does not prove that there was a reasonable cause for the activities to be carried out in the aforesaid manner.

9.5 ***Applicability:***—This amendment takes effect from 1st October, 2014.

13. Corporate Social Responsibility (CSR)

13.1 Under the Companies Act, 2013 certain companies (which have net worth of Rs.500 crore or more, or turnover of Rs.1000 crore or more, or a net profit of Rs.5 crore or more during any financial year) are required to spend certain percentage of their profit on activities relating to Corporate Social Responsibility (CSR). Under the existing provisions of the Income-tax Act, expenditure incurred wholly and exclusively for the purposes of the business is only allowed as a deduction for computing taxable business income.

13.2 CSR expenditure, being an application of income, is not incurred wholly and exclusively for the purposes of carrying on business. As the application of income is not allowed as deduction for the purposes of computing taxable income of a company, amount spent on CSR cannot be allowed as deduction for computing the taxable income of the company. Moreover, the objective of CSR is to share burden of the Government in providing social services by companies having net worth/turnover/profit above a threshold. If such expenses are allowed as tax deduction, this would result in subsidizing of around one-third of such expenses by the Government by way of tax expenditure.

13.3 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. However, the CSR expenditure which is of the nature described in section 30 to section 36 of the Income-tax Act shall be allowed as deduction under those sections subject to fulfillment of conditions, if any, specified therein.

13.4 ***Applicability:***—This amendment takes effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent years.

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