



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

CSR Committee
The Institute of Chartered Accountants of India

Answers to Questions (ATQs)
Raised during the Live Webcast
on

"CSR Rules, Accounting and Taxation"

held on
29th April, 2020



PREFACE

Corporate Social Responsibility Committee of ICAI (CSR Committee) had organised a live webcast on 'CSR Rules, Accounting and Taxation' on 29th April, 2020, the details of which is as under:

Inaugural Address by:	CA. Pramod Jain, Chairman, CSR Committee of ICAI CA. Charanjot Singh Nanda, Vice Chairman, CSR Committee of ICAI
Speakers:	CA. Pramod Jain CA. Rajesh Mittal
Secretary:	CA. Sonali Das Halder

The Webcast received overwhelming response and was attended by more than 5000 viewers. The said webcast can be viewed again at <http://ecpl.live/icai/csr/29042020>

There were many questions raised during the webcast. We have prepared answers to the questions (ATQs) raised during the webcast. However, repetitive questions and questions not related to the subject matter have not been answered. The answers have been given for reference purposes and is the response submitted by the speakers and not the view of the ICAI. Details analysis may be done and other material may be referred to by members in this regard.



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Composition of CSR Committee during the year 2020-21

Members

- CA. Pramod Jain, Chairman
- CA. Charanjot Singh Nanda, Vice-Chairman
- CA. Atul Kumar Gupta, President (Ex-officio)
- CA. Nihar Niranjana Jambusaria, Vice-President (Ex-officio)
- CA. Anil Satyanarayan Bhandari
- CA. Jay Chhaura
- CA. Prafulla Prem Sukh Chhajed
- CA. Nandkishore Chidamber Hegde
- CA. Dheeraj Kumar Khandelwal
- CA. Chandrashekhar Vasant Chitale
- CA. Durgesh Kumar Kabra
- CA. Dayaniwas Sharma
- CA. G Sekar
- CA. Rajendra Kumar P
- CA. M P Vijay Kumar
- CA. Ranjeet Kumar Agarwal
- CA. Sushil Kumar Goyal
- CA. Pramod Kumar Boob
- CA. Kemisha Soni
- CA. Rajesh Sharma
- Shri Gyaneshwar Kumar Singh
- Shri Sunil Kanoria

Co-opted Members

- CA. Shailendra Sharma
- CA. Charmi Shah
- CA. Vinay Jindal
- CA. Satish Goyal
- CA. Vijay Kumar Gupta
- CA. MS Ladha
- CA. Naveen Sharma

Special Invitees

- CA. Rajesh Mittal
- CA. Deen Dayal Agarwal
- CA. Satish Goyal
- CA. Sanjeev Kumar Jain
- CA. Rakesh Singhal
- CA. Manoj Sarda

Secretary to the Committee

- CA. Sonali Das Halder



Answers to the Questions (ATQs) raised during the Live Webcast on
“CSR Laws, Accounting and Taxation”
held on 29th April, 2020

S. No.	Question	Response
1	It has been observed that CSR funds have been allocated to hospital or doctors for construction of hospital building or for their day to day OPD; while doctors are charging Rs 1000 to Rs 1500 per patient. Then, what is the public benefit arising out of CSR activity of this type ?	CSR spend may be done through Section 8 Company / Registered Trust / Registered Society as per the CSR Rules. CSR funds were given for construction of hospital building, which is for promoting health care. This is allowed as per clause (i) of schedule VII of Companies Act 2013
2	The CSR funds have been allocated for sports promotion activity and funds released to Sports Authority of India, a Central Government institution. The funds have neither been used for last 4 years nor returned by government institution; even after so many reminders. They are saying that they will utilise the fund for sports promotion activity only. Tell us what do you think is the possible future course of action as per CSR Rules. What is our responsibility ?	To claim it as a CSR spend, the amount should have been spent on training to promote sports. It has to be a project, mere donation/contribution to Sports Authority of India, without an underlying project, may not constitute CSR activity in terms of clause (vii) of schedule VII of Companies Act 2013
3	Amount paid to an NGO in March for a project to be completed by September next year. Will the amount paid would qualify for CSR for the year ended March ?	Yes, it would qualify for CSR in the financial year in which it has been paid by the Company to the NGO.
4	Whether, CSR contribution in kind is allowed? Suppose we are in Diagnostic industry and would like to donate testing instruments to NGO or Government lab for free. Will that be considered as a part of CSR contribution? If Yes - then contribution amount will be at sale price or only at cost price of instrument. Thanks.	It should be considered as CSR spend. The CSR spend would be cost or Net Realisable Value (NRV) whichever is lower as per AS 2 / Ind AS 2.
5	Can administrative expenses cover only company administrative expenses or do these include administrative expenses incurred by the NGO to whom the company pays CSR Funds ??	Ceiling of 5% on administrative expenses as mentioned in the Rules, apply to all administrative expenses whether of the company or the NGO
6	As there is still no audit / certification requirement against CSR Report or CSR expenditure, how would authorities decide if all CSR expenditures are in accordance with Sec. 135 of Companies Act?	Companies covered under CSR are required to make disclosures under Board Report. Such disclosure covers the information required for the authorities to decide whether CSR



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S. No.	Question	Response
		expenses are in line with the law or not. Recently the CSR Committee of ICAI has issued an Advisory to issue the CSR Utilization Report in such cases.
7	Is provision of CSR expenses mandatory during the F.Y 2019-20? Or only note of CSR expenses is sufficient if expenses are not provided?	No, for FY 2019-20 provisions for CSR Expenditure is not mandatory but optional. Reasons for not spending has to be given in Directors' Report
8	1.What happens to the unspent amounts from allocated CSR budget? 2.What is the applicability of Notification regarding opening of separate bank account in the name of Unspent Corporate Social Responsibility Account	Amendments made to CSR law by Companies Amendment Act 2019 have not yet been notified. Therefore, the requirement of transferring unspent CSR amount to a separate bank account is yet not applicable.
9	Whether CSR expenditure is an operating expenditure or an appropriation of profits ?	CSR expenditure is not an operating expenditure but is to be disclosed as other expense in Statement of Profit and Loss. Disclosure is not to be made in Surplus A/c under Reserve & Surplus in Balance Sheet.
10	In draft rules, CSR report contains table asking for unspent amount and transfer to central fund details from 2014 onwards. Can you clarify what is it about? Because unless the rules and 2019 amendment is notified, companies are not obliged to transfer any unspent amount to central funds.	Amendments made to CSR law by Companies Amendment Act 2019; have not yet been notified. Draft Rules have no legal binding force yet.
11	Our company has spent the required amount on CSR. However CSR policy was not approved by the Board. Whether the amount spent on CSR will be considered?	Approval of CSR Policy is mandatory. A disclosure should be made in the Board Report stating that the CSR Policy has not been approved by the Board as well as mentioning the amount spent on CSR. As already mentioned, there are no penal provisions applicable as of now, for not incurring CSR expenditures.
12	Is contribution to the Chief Minister Relief Fund towards Covid-19 an acceptable CSR expenditure?	No.
13	Penalties for the company not adhering to the CSR guidelines.	There is no penalty applicable for not adhering to CSR Law, except a disclosure in the Board Report stating the unspent amount on CSR and the reasons thereof. If the said disclosure is not made, general penal provisions u/s 450 of the Companies Act 2013 may apply.



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S. No.	Question	Response
14	CSR expenditure of 2% of profit for the year ended March 20, whether can be done up to 30th June 20, as due to lockdown expense could not be done up to 31 st March 2020	No, for March 2020, it would not be treated as amount spent.
15	If some Registered Charitable Organisation receives CSR money, in how much time it should be spent and what type of documents to be given to the donor company?	The matter relating to implementation and monitoring of CSR Funds should be specified clearly in the CSR Policy of the company. The period within which the CSR funds should be deployed should form part of the agreement between the Company and the implementing agency. Recently the CSR Committee of ICAI has issued an Advisory to issue the CSR Utilization Report in such cases.
16	The activities specified in Schedule VII of Companies Act focus on social aspect only. Should it not include environmental protection also?	Environmental Protection is already covered. Refer item (iv) of Schedule VII of Companies Act 2013
17	Would expenditure used to augment resources of a training program under Pradhan Mantri Kaushal Vikas Yojana (PMKVY), qualify for CSR?	It may be qualified in clause (ii) of Schedule VII of the Companies Act 2013
18	Why the state Chief Ministers Relief Fund not included in CSR. Whereas this can be also used more effectively to fight the current Covid-19 pandemic and provide speedy relief at local level.	Refer General Circular No 15/2020 issued by MCA. It has been clarified that 'Chief Minister's Relief Fund' does not qualify for CSR expenditure. The circular is only clarification of Schedule VII of Companies Act, 2013; and should be read accordingly.
19	Will the excess spend in one year be considered to offset any shortages in the following year?	No. However, the Companies (Amendment) Bill 2020, it is proposed to be allowed so.
20	Company is funding a school for handicapped children. Children of the employees of the company are availing facility of the school. Also, Children from nearby villages are availing the facility of school as there is no such school in nearby area. Fees charged to children of employees is higher than charged to other children. Can the funding to such school can be treated as CSR expenditure?	Yes, since the school is used for both children of the nearby village and employees of the company. Any benefit exclusively meant for the employees and their family members does not qualify as CSR expenditure.
21	Is there a list of incubator or universities / institution to whom CSR donation can be made	Please refer item (ix) of Schedule VII of Companies Act, 2013



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S. No.	Question	Response
22	We are a charitable trust, we provide CSR activity on behalf of Entities. Is it necessary to keep the trail of mails / documents right from the beginning like pitching a donor party, deals/ quotations up to final activity closure?	Yes. Maintenance of appropriate documentation and of the expenditure on CSR activities is required.
23	Whether land transfer to Section 8 Company for construction of Skill training centre will be treated as CSR Expenditure?	Yes, it may be covered in clause (ii) of Schedule VII of Companies Act, 2013.
24	Can CSR be used for beautification of a prime junction in Mumbai?	Mere beautification may not be covered, however if related to environment sustainability, then it may be covered in clause (iv) of Schedule VII of Companies Act 2013.
25	As per circular dated 23-03-2020, it was clarified that spending of CSR fund for COVID-19, is CSR activity. Based on this clarification, a company gives out of its CSR balance to a state Government at its request ₹10.00 lakhs on 28-03-2020 (before circular dated 10-04-2020) to be spent for Covid-19 expenses. What will be the fate of this contribution. Can they not claim this as CSR expenses as per Circular dated 10-04-2020.	No, it would not be covered. Circular dated 10 th April 2020 is a clarification to Schedule VII and is not a new provision of law.
26	Subsidised food was provided to general public, having low income (daily wage earners etc.). Can this item qualify under CSR activities.	No, the company has sold the food at lower rate. However, it would depend on exact facts.
27	Are contributions done to Chief Minister Covid-19 funds before the clarification of 12th April eligible to be classified as CSR under Companies Act? It was done on the basis of the announcement of FM that any Covid-19 expenses are allowed to be classified as CSR.	No
28	In the second year of its incorporation, a Private Ltd Company has Gross profit (before tax) >5 cr and Net profit(after tax) less than 5 cr. Is CSR applicable to this company.	Net Profit has to be calculated in the manner prescribed under section 198 of Companies Act, 2013; for the purpose of eligibility under CSR provisions. Gross profit is not to be considered for CSR purposes.
29	What if last year CSR funds could not be utilized? Can we keep those funds aside by an FD and also use the interest on that FD for that purpose. Further should these funds be specifically used for some purpose?	For FY 2019-20 it is not mandatory to keep unspent amount of CSR in a separate bank account. If a company does so, it is a voluntary act. However, the Board Report should disclose this as an unspent amount.
30	Do Companies under IBC i.e. NCLT also	Yes. Companies Act 2013 applies to IBC



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S. No.	Question	Response
	need to spend under CSR?	companies, as well.
31	The Company intends to take up activities such as sanitization of the office premises including the areas appurtenant thereto, distribution of Personal protective equipment (PPEs) like masks, gloves, hand sanitizers, to company employees, other third party staffs, visitors, etc. So whether these expenses will be covered in CSR expenditure or not ?	No. Expenses made solely for the benefit of the employees also does not qualify as CSR expenditure.
32	CSR fund spend on COVID-19 related expenses will qualify for CSR expenses?	Yes. Refer General Circular No 10/2020 dated 23 rd Mar 2020, issued by MCA
33	Whether CSR spend before approving the CSR policy by the Board is valid?	Make an appropriate disclosure in the Board Report.
34	Is CSR mandatory for all businesses?	Yes, if the conditions of S. 135 of the Companies Act 2013 are met. It does not differentiate between industries or businesses.
35	Whether CSR funds can be given to an educational institution having 80 G, and 12 A, FCRA registration etc.?	Yes. Rule 4 of CSR Rules 2014 provides that registered society/trust is eligible for CSR funding.
36	What is the limit of CSR ?	There is no limit on CSR expenditure but the minimum allotment to the CSR funds under Section 135 of Companies Act 2013 for the CSR is specified as 2% of the average net profits of the preceding three financial years.
37	Whether CSR expenditure in lockdown but payment after Lockdown is allowable	No. The amount has to be spent.
38	If a Public Ltd Company decided to make expenditure in certain project under CSR, the same is approved by Board and also in CSR committee. Now the Company wants to give the Fund to PM CARE. Can the Company do so?	Yes, the Company can change its preference. The Board and CSR Committee should approve the same.
39	Can CSR funds be used for development of sports, conducting sports competitions etc.	Yes. Refer item (vii) of Schedule VII of Companies Act, 2013.
40	It has not been made mandatory to spend a portion of total CSR budget in a particular year in the periphery of the unit. Preference has to be given but not mandatory. The whole amount is spent on the preferential area of the promoter. Will it not serve the purpose.	So long as the CSR funds are spent on the activities specified under Schedule VII of Companies Act, 2013, there should be compliance of CSR provisions. The preference of area is optional and not mandatory.
41	Can a company spend in kind, their own products which are sold in the normal course of business, but which can be	Though it appears to be CSR, yet may be covered under Rule 4(1) being in the ordinary course of business.



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S. No.	Question	Response
	helpful for eradication of hunger and poverty under this Covid-19 ?	
42	From a reporting perspective, can mere disbursement of funds to a CSR partner (NGO) considered as application of CSR funds or is it mandatory for the associated NGO partners to actually spend the allocated funds for reporting it as application of CSR funds?	Mere disbursement/donation of funds to eligible CSR partner is not considered as application of funds. It should be for a definite project and the CSR Policy must specify monitoring and reporting mechanism for effective utilization of the CSR Funds.
43	A company has spent on CSR for F.Y. 18-19 a sum of ₹ 10 lacs and eligibility of the company to spend for CSR is starting from F.Y.19-20. Can the benefit of the amount already spent in previous year be carried forwarded to F.Y. 19-20 for ₹ 10 lac and the company be only required to spend remaining amount on CSR?	No.
44	- Whether an educational trust having 80G, 12A, FCRA, registration, can receive donation under CSR? - Some companies transfer their CSR fund through CSR committees to their separate Foundations where company and its director has no say. Is this allowed ? - Can CSR amount be donated to a Trust/Society registered with IT -- Rotary, Lions, etc. - A Company donates to 80G trusts under CORPUS. Will the same be considered as eligible CSR spend? - Can a private limited company contribute towards CSR to a Trust run by and in which some of the directors/shareholders are Trustees. The said Trust is registered u/s 12AA and approved u/s 80G of the Income tax Act, 1961 and runs Schools. - Whether donation or contribution by a company to a trust doing CSR activities is considered as CSR expenditure of the company for compliance of CSR provisions? - Whether donation made to a NGO in a rural area for providing foods to needy people are covered or not under CSR? - Whether expenditure or amount given to Society Registered u/s 12A of IT Act, for the purpose of spending for Corona	Mere donation / contribution is not CSR spend. Where a company decides to undertake its CSR activities through a company established under section 8 of the Act or a registered trust or a registered society, other than those specified Rule 4(2), then: - such company or trust or society shall have an established track record of 3 years in undertaking similar programs or projects; AND - the company has specified: - the projects or programs to be undertaken; - the modalities of utilisation of funds of such projects and programs; and - the monitoring and reporting mechanism Further as clarified by MCA through general circular No. 21/2014 dated 18th June 2014 contribution to Corpus of a Trust/ society/ section 8 company, etc. will qualify as CSR expenditure as long as: - the Trust/ society/ section 8 companies etc.is created exclusively for undertaking CSR activities; or - where the corpus is created



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S. No.	Question	Response
	relief like Annadanam Free Food for Labourers and needy persons etc. qualify for CSR expenditure. • Whether Contribution to Institution like Ramkrishna Mission eligible for CSR expenditure? • A company wants to contribute to a Trust which runs a private educational institution. Such amount will be spent by the Trust solely for free schooling to poor and children with special needs. Can the Company treat the contribution to the Trust, as CSR expense, given that the school is not exclusively engaged in free schooling activity? • Does donation given to a Trust registered under Income Tax Act, 1961 which is conducting Covid-19 relief measure, comes under eligible CSR expenditure? • As per the rule, can a registered NGO be engaged to complete CSR spend with a specific project assigned by the company? • Would corpus donation to a Trust be eligible for CSR spend?	exclusively for a purpose directly relatable to a subject covered in Schedule VII of the Act.
45	If the company discloses reasons for non-spending of CSR expenditure, will the penal provisions be abated?	There are no penal provisions applicable, as of now. On disclosure of reasons for non-spending on CSR, in Directors' report is compliance of CSR law in FY 2019-20
46	Whether; besides the payment of wages and salary to casual labour, provision of food, and distribution of sanitizer's, distribution of masks will also be eligible for CSR expenses, though not specifically mentioned in MCA General Circular No. 10/2020 and 15/2020	Provision of food, and distribution of sanitizer's, distribution of masks to casual workers should be CSR activity
47	Company wants to spend CSR amount but are unable to spend before 31st March 2020. What action may be taken for the same?	Unspent CSR amount along with reason thereof has to be disclosed in the Board Report. Company may decide to voluntarily spend it in the subsequent years, which would be over and above the requirement of CSR spend of that year. In such a case, the Company may make a provision in March 2020 accounts.



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S. No.	Question	Response
48	What will be the quantum of CSR, if there is no profit in last 3 preceding years.	Nil
49	Is there any other Country which has incorporated similar provisions in the legislation governing corporates?	Mandatory CSR is unique to India.
50	Suppose the Net Profit of a company exceeded ₹ 5 crores in FY 2018-19 and falls below Rs 5 crores in the subsequent years, for how many years CSR implications will apply to the company?	There are two basic compliances under CSR law :- a) Forming a CSR committee b) Spending on CSR activities. According to Rule 3(2) of the Companies (CSR Policy) Rules 2014, every company which ceases to be a company covered u/s 135(1) of the Act for 3 consecutive financial years shall not be required to - a) constitute a CSR Committee; and b) comply with the provisions contained in sub-section (2) to (5) of the section 135, till such time it meets the criteria specified in section 135(1) Hence, the criteria given in section 135(1) if not met for 3 consecutive years, only then would come out of CSR compliance
51	When a separate entity has been formed for CSR Activities, say a Section 8 company or Trust under MPT Act, 1950, then how do you comply with rules pertaining to CSR Committee ?	Company has to form CSR Committee, who would formulate and manage the CSR activities. The activities can be done by the Company itself or a third party as stated in the question.
52	Can salaries of CSR personnel and managers be included in that 2% mandatory expense limit? Thereby reducing the overall expenditure burden.	Yes, however only up to a maximum of 5% of the overall CSR spend.
53	What is BRR and when is it required?	BRR stands for Business Responsibility Reporting and applies to top 1000 listed companies by market capitalisation.
54	Whether BRR is applicable in case of branch (in India) of foreign listed Co.	No



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S. No.	Question	Response
55	What is the meaning of Liberal interpretation? Whether traveling, conveyance, hotel stay, printing, CSR staff expenses are also covered under CSR expenses?	Administrative expenses upto 5% of total CSR expenditures is allowed. Liberal interpretation is with reference to activities and programs specified under Schedule VII of Companies Act, 2013.
56	Whether Companies not falling under Section 135(1) shall also have to constitute a CSR committee?	No, need to form a CSR committee, if CSR eligibility limits are not met.
57	CSR spending quantum is calculated @ 2% of Net Profit. Is this Net Profit taken after deducting all expenses including CSR expenses or Net Profit without deducting CSR expenses?	Net Profit is calculated in the manner specified under section 198 of Companies Act, 2013 and after deducting CSR expenditure.
58	Can CSR spending be for education of children of ex-employees?	Yes
59	If a Robot is purchased by a company and donated to a hospital for Covid-19 treatment will it qualify for CSR activity. If so under which clause?	Clause (i) & (xii) of Schedule VII; provided the company is not operating in the same business.
60	Can a company carry out CSR activities through a Section 8 company incorporated by a fellow subsidiary but in which the first company is not a shareholder?	No. It should be along with the parent company. Or else the Section 8 company should comply with a minimum three years track record criteria under Rule 4(2) of CSR Rules 2014.
61	A company is contributing to PM CARES fund and as per current changes, donations made up to June 30, 2020 will be eligible for benefit u/s 80G in FY 19-20. Now since the actual contribution will be in FY20-21, can we claim the same as CSR contribution for the FY 20-21. The contribution for FY 19-20 was already done	Yes. CSR spend under Companies Act, 2013 would be counted only in the year of the spend.
62	Whether contribution to PM National Relief Fund or PM CARES for CSR would be allowable as deductions u/s 80G	Yes
63	Whether amount spent to construct toilets under PM Swachhta Abhiyan in the district where company Plant operates, qualifies for CSR spend? A Construction company constructs toilet to a public school, will it come under CSR?	Yes



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S. No.	Question	Response
64	Admin costs can be 5% of the CSR expenditure incurred during a financial year. However, generally, the planning for admin costs will be done at start of the financial year (limiting within 5% of planned CSR expenditure). There is high possibility that though CSR expenditure was not as planned but admin costs are at times fixed and be fully used / spent in the financial year. Result, admin expense is more than 5% of actual CSR expenditure. Sometimes, such situations can be genuine but impact Company with more than 5% admin costs. Any inputs for this?	Only 5% of the actual CSR spend would be allowed as admin expenses on CSR.
65	Is CSR obligation applicable only for Companies or it applies to other entities also like Port Trusts, PSUs and others?	The CSR obligation applies to companies registered under the Companies Act, 2013, meeting the requirements specified u/s. 135.
66	a) Can a Sec 8 company engaged in one of the activities prescribed under Schedule VII (as part of its normal operation), treat its normal activity expenditure as CSR expenditure? If No, then does that mean that it needs to spend money on activities undertaken by other eligible entities? b) Will it be a different situation if the said company is also regularly generating revenue from these activities?	What is restricted under the CSR rules is the activities undertaken in pursuance of its normal course of business. A section 8 company is not for profit, hence not doing any business. If the activities it undertakes is covered under Schedule VII, the same would suffice. Generation of revenue is incidental to its main objects of charity.
67	Can Machinery given for CSR which was earlier used in business allowed under CSR Activities?	Yes, if the machinery is related to any activity specified in Schedule VII of the Act.
68	- Whether salary paid to employees during lockdown period can be considered under CSR expenditure. Can the same be considered as CSR expenditure if Welfare Trust is created? - Whether salary paid to irregular staff is allowable CSR expenditure	No. Refer General Circular No 15/2020 dated 10 th Apr 20, issued by MCA.
69	Is CSR expenditure for employee family planning allowed as expenses. Whether same is considered as CSR u/s. 135 of Companies Act 2013.	No. Any expenses solely for the benefit of employees and their family members does not qualify as CSR expenditure.



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S. No.	Question	Response
70	If a company contributes to PM Relief Fund without spending on the projects in local area, whether the contribution will qualify as CSR expenditure? This question is because as per CSR law first preference for CSR spend has to be given to Local area projects	Yes, as it is specifically covered in clause (viii) of Schedule VII
71	What would be the treatment for expenditure on any CSR support provided by a company to say, research on a vaccine for Covid-19, under different scenarios?	Spending of CSR funds for Covid-19 is covered under CSR. Refer General Circular No 10/2020 Dt 23 rd March 2020. However, if it is a CSR spend, then the same would not be allowed as a business expenditure under Income Tax laws.
72	If staff of a company spends some time on a CSR project, will their proportionate salary be considered as part of CSR?	Yes, but within the overall limit of 5% as per Rule 4(6) of the Companies (CSR Policy) rules 2014.
73	Does donation made to goshala qualify for CSR expenditure?	Goshala does not seem to fall under any of the activities mentioned under Schedule VII of Companies Act, 2013.
74	2% of average profits before tax or after tax?	Net profits before tax.
75	Whether unspent CSR amount" is defined?	Unspent CSR amount means the difference between prescribed amount as per CSR law and the amount actually spent by the Company.
76	Is contribution as CSR to certain institution which is engaged in training of people, and by coincidence the same institution is also supplying labourer's to the company allowed as CSR?	Yes, subject to the fact that such institution is catering to society at large and not solely for the purpose of the contributing company.
77	Suppose any company forms their own trust for conducting eligible activities, and it is, say, 1 year old. In such case what CSR committee should do. Can they transfer full CSR amount to that 1 year old Foundation. Will it be allowed as eligible CSR expenditure ?	Yes, it is allowed. The restriction for three years track record is applicable to trusts set up by third parties. Refer Rule 4 of CSR Rules 2014. The Company's CSR Committee must have an appropriate reporting and monitoring mechanism.
78	If CSR committee adopts the Schedule VII, whether the contribution to the CM fund for the Covid-19 is covered or not?	No
79	Amount is received by NGO registered u/s. 12AA of the Income Tax Act, from a company to implement CSR project. Whether the receipts is treated as a	The requirement of 85% utilization is under Income Tax Laws. Under CSR Laws, 95% is required to be spent as per the agreement of the company and



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S. No.	Question	Response
	donation or grants and 85 % utilisation is applicable to that receipts?	the NGO.
80	A company incurs some expenditure on roadside plantation and also uses the same for its advertisement. Can it be classified as a CSR expense ?	The activity must be part of Schedule VII of Companies Act, 2013; and display of name of the CSR Company should only be incidental to the main purpose of CSR.
81	Will expenditure on construction of Women hostel for women employees of the company be eligible under CSR ?	No
82	Whether donation of ₹ 10 Lakhs to an old age home with specific instructions to be used for construction of its in house small hospital (project size is ₹ 3 crores), can be considered as eligible CSR expenditure?	Yes; it is an activity covered under Schedule VII of Companies Act, 2013.
83	Once a CSR committee is formed what is its duration? What if in one-year company earns profit more than ₹ 5 crs. but there after continuously for 4 years profits are less than ₹ 5 cr., will the CSR committee continue?	The requirement for forming CSR Committee is emerging out of Sec 135(1), which inter alia, carries ₹ 5 cr net profit criteria during the immediately preceding financial year. If none of the criteria mentioned in Sec 135(1) is fulfilled for 3 consecutive years, only then there would be no requirement to set up a CSR Committee. The duration of CSR Committee is as desired by the Board of Directors of the Company. The Board is authorised to change the constitution of the CSR Committee.
84	Whether food distributed by Company to casual labour with ex-gratia, is eligible CSR spend?	Yes. Refer General Circular No 15/2020 dated 10 th Apr 20, issued by MCA.
85	Is Section 135 applicable to project office of foreign company	Foreign Companies are covered under CSR. There are specific provisions regarding constitution of CSR Committees of such companies under Rule 5.
86	If an automobile company is manufacturing ventilators for Covid-19, will the expenses be considered as eligible CSR?	Yes
87	Whether CSR funds given to Government School for construction of rooms, but the Government School is not giving Utilization Certificate , whether expenditure will be eligible CSR expenditure in the hands of the company	Yes, however the CSR committee has to take further course of action as per the agreement between the company and the school in view of the monitoring and reporting mechanism specified in the CSR policy and the stated agreement



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S. No.	Question	Response
88	During Covid-19, if a company gives amount (through cheque) to migrant workers (who are not employees of the Company), through NGO, will it be eligible for CSR expenditure.	Yes
89	Is contribution to State Disaster Management Authority eligible for deduction u/s 80 G?	Yes, as per FAQs given on COVID-19 General Circular No. 15 /2020 dated 10th April 2020
90	Will purchase of medical health care equipment for a hospital be eligible under CSR and what will be the requirements	The expenses will be eligible only if hospital is a registered trust or society. Hospital running on a commercial basis does not qualify.
91	A company has done CSR for three years and since last 3 years company is not eligible under CSR. Is there any further obligation after 3 consecutive years?	No.
92	Whether it will be proper to have CSR policy to carry on activities for help to poor through a trust which is genuinely engaged in such activities?	Yes
93	A company gives contribution to a institution having 80G registration to fulfil its CSR liability. Questions are: 1) What kind of documentation to be obtained from the institution by the company? 2) Whether company can claim deduction under section 80G of the Income tax Act,1961?	The Company in compliance of its CSR Policy has to work on the modalities of utilisation of funds of such projects and programs and by the Institution, obtain documents and reports as per the Advisory issued by CSR committee of ICAI related to Utilization Report of CSR spend. Deduction u/s 80G of Income Tax would be allowed if not specifically restricted like for Clean Ganga Fund, etc.
94	Whether the provision is required to be created for unspent CSR amount in the books of accounts of a company?	Not for FY 2019-20, as the amendments introduced by Companies Amendment Act 2019 regarding transfer of unspent amount to specified account, have not yet been notified to be applicable.
95	As far as financial statements are concerned, CSR expenditure are charged on profit or application of profit.	In cases, where an expenditure of revenue nature is incurred on any of its activities mentioned in Schedule VII to the Act by the company on its own, the same should be charged as an expense to the Statement of Profit and Loss Account and appropriation of profits.
96	If a manufacturing company, wants to	A company manufacturing/ dealing in



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	distribute their manufactured product to needy people as CSR, what would be the accounting entry in the books of company?	goods or services distributes those goods/ services itself free of charge as CSR spend, which may not be covered in CSR spend in view of Rule 4(1) of the Companies (CSR Policy Rules) 2014. However, in Mohd. Ahmed (Minor) vs. UOI & Ors dt 17.4.2014, MCA gave an affidavit that a pharmaceutical Company donating medicines / drugs within section 135 read with Schedule VII of the Act is a CSR activity, as the same is not an activity undertaken in pursuance of its normal course of business which is relatable to health care or any other entry in Schedule VII. In such cases the cost or NRV thereof should be expensed as CSR expenditure.
97	If in preceding three financial years there is net loss instead of profit, how 2% profit is to be calculated?	Companies are expected to spend 2 % of the average net profit of the last three financial years. Hence, even for two consecutive years if the company has been in loss, but on an average, the company has been in profit since the last three years, then the company would be required to spend 2 % of the average net profit on the stipulated CSR. However, if the average net profit of three years is negative, then there would be no requirement to spend on CSR.
98	We have invested in a Project of CSR Activity which will require 2 to 3 years to get completed. However since the project had not been completed, the expense on the above project was not shown as CSR Expense and was shown as Capital Work In Progress on Books. Now after 2 years the project is completed. What should be the accounting treatment of the same?	As, the expenditure is on CSR, it cannot be capital work-in-progress. It should be expensed in the year when the amounts are spent.
99	While calculating 2% of profit, whether turnover is including GST or not?	No, turnover should be without including GST.
100	Do we need to compute net profit as per section 198 or the PBT as per audited financials can be considered?	Profit should be calculated as per section 198 of the Companies Act 2013.



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101	For calculating CSR amount to be spent, whether we need to include profit earned by foreign branch office?	Net profit means the net profit of a company as per its financial statements prepared in accordance with the applicable provisions of the act, but shall not include the following, namely: • any profit arising from any overseas branch or branches of the company, whether operated as a separate company or otherwise; and • any dividend received from other companies in India, which are covered under and complying with the provisions of section 135 of the Act.
102	No provision for CSR was created in the accounts of 2019 but directors in its report for the year 2019 mentioned that the company needs to incur ₹ 20 lacs by March 2020 which the company failed to incur by March 2020 due to Covid-19 but have contributed an amount of ₹. 18 lacs towards PM Relief Fund. How the balance of ₹ 2 lac will be treated in the accounts or may be transferred to specific fund set up for this purpose?	Provisions relating to transfer of unspent CSR amount to a specified fund, have not yet been notified, so, no provision in the books is required for year ending March 2020. However, if the balance amount is an accrued liability, then the provision would be required as per accrual concept; even though it may not be treated as CSR expenditure spend for the year.
103	If IND-AS is applicable on a NBFC company from April 01, 2019, whether such company will consider last year profit (as on 31.03.2018) as per GAAP or as per IND-AS?	CSR shall be calculated as per applicable GAAP.
104	Whether AS-18 / IND AS 24 will be applicable when group companies undertakes buying and selling of goods for CSR activities. e.g. Reliance Retail giving goods to Reliance Industries?	Yes, disclosure should be made as per AS 18 or IND AS 24 when group companies undertakes buying and selling of goods for CSR activities. Following are the disclosure: - (a) Gross amount required to be spent by the company during the year. (b) Amount spent during the year. Details of related party transactions e.g. contribution to trust controlled by the company in relation to CSR expenditure as per AS18 or IND AS 24.
105	Can CSR Spending be carried back, that is, to fulfil the unspent amount in any year?	The FAQs issued by MCA on 12th January, 2016 have clearly stated that a company cannot carry forward any excess expenditure made by it in one financial year for the CSR obligations to be delivered by it in the next financial



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		year. The excess spending has to be over and above the CSR budget for that financial year. As regards carrying backward of CSR, the same implies taking credit of the excess expenditure in subsequent year with that of the less amount not spent by the company for the previous financial year with respect to its CSR budget. The same is not allowed.
106	If a company have extraordinary profit in any one of the year due to market situation, (like commodity costs) then for average of 3 years of profit we have to consider actual profit or normal profit as per other 2 years. E.g. 1st Yr. Profit was ₹ 100 Cr. 2nd Yr ₹ 1500 Cr. and 3rd year ₹ 200 Cr.	Profit should be taken as per section 198 of Companies Act 2013.
107	How accounting will be done in case of separate entity like section 8 Company or trust or society ?	Amount paid to the third party by the company in terms of its agreement with it, would be accounted directly as CSR expenditure
108	Material purchased by CSR Partner from authorized distributor of the same Company, will it qualify as CSR expense? If so, how should such procurement be valued? Does requirement of Ind AS-2 apply?	Yes, it should be valued at cost incurred by the CSR Partner.
109	While calculating profits for CSR, whether profits on sale of shares need to be excluded?	As per section 198 of Companies Act 2013, profit on sale of shares shall be deducted while computing profit unless it is in the business of investing in shares.
110	As per provisions of section 135, the Board has to report the amount not spent on CSR. Is non – expenditure considered as non-compliance? What will be the role of auditor on non-compliance? Will he qualify his report?	The approach of CSR is clearly COREX i.e. based on the principle of comply or explain. The section and the rules nowhere describe the non-expenditure as noncompliance but simply require the reasons to be disclosed along with the amount unspent in the prescribed format as annexed to the Rules. Therefore, as long as the company explains the reason for not being able to spend on CSR in its board's report, there is no question of any non-compliance and hence, no qualification remark by the auditor on the same should be given.



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		Once the amendments brought in by the Companies (Amendment) Act, 2019 become effective, the unspent amount shall be treated as following: • Transfer of the unspent CSR amount to a Fund as mentioned in Schedule VII of the Act, 2013, where it does not relate to any on-going projects, within 6 months from the end of the financial year. • Transfer of the unspent CSR amount to Unspent Corporate Social Responsibility Account where it belongs to an on-going project, within 30 days of the end of the financial year. • Further, such amount is to be spent in the next 3 financial years, failing which the same shall be transferred to a Fund within 30 days after the end of the 3 financial years.
111	Whether profit from mutual fund should be included in book profit as per section 198 ?	Mutual fund profit shall be deducted while computing book profit under section 198 unless it is in the business of investing in mutual funds
112	A company has set up Solar Power facility at its office? Can it be considered as CSR spend under environment sustainability head under Schedule VII. Also, can the asset created through CSR spend be capitalised in the books of the Company?	The amount spent on generating renewable electricity can be considered as CSR only if it is outside the company's normal course of business or not meant for its captive use. Any expenditure incurred for the purpose of business cannot be CSR expense. CSR expenditure cannot be capitalised as the same is not purpose of the business and also it does not fulfil the conditions of AS 10 / Ind AS 16
113	Has the date of making contribution to PM cares fund Covid-19 been extended? Will the same be eligible to get deduction under section 80G if we have opted for lower tax under section 115BAA?	As per the notification of Central Government, the deduction of amount donated to PM CARES fund is allowed as deduction in the previous FY 2019-20, even though payment is made after FY 19-20 but up to 30th June 2020. Yes, it can avail of lower tax u/s 115BAA as the restriction is only for Part 'C' of Chapter VIA.
114	• Donation to PM Covid-19 Fund is supposed to be covered as CSR expense. Is 100% deduction u/s 80G allowed for such donations?	Yes, deduction should be allowed under section 80G



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	Under the Income Tax Act, the CSR amount is not allowed as expenditure. But whether the same can be allowed as deduction u/s. 80G?	
115	Ex-gratia paid to temporary/casual workers: can the company claim it as a deduction under Income Tax Act?	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 onetime exception provided there is an explicit declaration to that effect by the Board of the company, which is duly certified by the statutory auditor. The same cannot be claimed simultaneously as business expenditure
116	Whether ITC under GST law is available on expenses incurred on distribution of items in respect of Covid-19 activities?	ITC would not be allowed on any expenditure claimed to be CSR spend, as the same is not used for the purpose of business.
117	Will the TDS provisions apply to CSR spend?	If a company executes the CSR activities on its own then the CSR expenditure incurred for those nature of activities which calls for TDS, the provisions of TDS shall equally apply to those CSR expenditures.
118	Is the expenditure paid to another institution - deductible under Section 35(1)(ii) or 35(1)(iii), also qualify as CSR expenditure	If the expenditure is covered as per Schedule VII of the Act, the same may be treated as CSR spend. Further, the said CSR spend is paid to a University, College or Other Institution eligible under section 35(1)(ii) or 35(1)(iii), the same may be allowed as a deduction under those sections.
119	If partnership firm spends on CSR without being under compulsion for CSR, whether expenditure made is to be recorded as CSR expense?	CSR is mandatory only for companies. If other entities spend, the same may not be allowed as expenditure under Income Tax, and should be recorded as CSR expenditure, since it is not used for the purpose of business
120	If amount spent on CSR personnel is more than 5% of CSR Expenditure let say 7% then would an assessee be able to claim business expenditure in income tax of 2% as it will be disallowed in CSR	No, as it is a CSR spend which is not for the purpose of business.



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	expenditure?	
121	Whether Sponsoring eye camp and donating Ambulance to NGO, can be covered under CSR and is it necessary for such NGO to have exemption certificate u/s 80G	It would be eligible for CSR funds if it is registered u/s 12AA. Registration u/s 80G is not mandatory.
122	Will the amount spent in excess of CSR spend be allowed under Section 37 of the Income Tax Act?	No, as it is a CSR spend which is not for the purpose of business
123	If we spend CSR of two years in one year, can we claim 80G deduction of both in one accounting year	Deduction u/s 80G is on payment basis
124	If the company is required to spend the amount u/s 135 in FY 2019-20 but not spent the full amount last year then if it spends the balance amount in FY 2020-21 then whether the amount spent will be assumed as unspent amount of last year and remaining amount as amount spent for current year.	No. Each year's prescribed amount and spent amount has to be looked at separately.
125	Donation to PM Cares fund eligible for CSR in Companies Act why not contribution to PM National Relief Fund?	Both are eligible.
126	If a company forms a trust to use its CSR fund whether the trust shall be treated as a related party for proper disclosure in audited accounts	Yes, a company should disclose details of related party transactions e.g. contribution to trust controlled by the company in relation to CSR expenditure as per AS 18 or IND AS 24.