Corporate Social Responsibility (CSR) appropriation

Why in News?

The government through the Companies (Amendment) Bill, 2019 has planned to appropriate unspent CSR amounts of companies.

What is CSR?

- Corporate Social Responsibility (CSR) has been defined under the CSR rules of the Companies Act. It includes but is not limited to:
    1. Projects related to activities specified in Schedule VII of the Companies act, 2013; or
    2. Projects related to activities taken by the company board as recommended by the CSR Committee, provided those activities cover items listed in the Schedule.

What is the current law?

- The Companies Act, 2013 is the current law which deals with CSR.
- The companies meeting certain financial thresholds are required to constitute an internal CSR committee which will formulate policies to ensure that 2% of average profits are spent on CSR.
- On failure to spend this amount, the board owes an explanation in the annual report.
- **Section 135** - Requires companies to have a CSR policy overseen by their own boards.

What are the amendments?

- The government has sought to tighten the screws on the CSR obligations of the formal (government and corporate) sector of the nation i.e. India Inc. through the amendments to the Companies Act.
- It seeks to convert the provision under Section 135 into a hardline statutory requirement.
- The amended law requires companies to confiscate 2% of their profits towards CSR, with unspent balances appropriated to the Central coffers if unspent for 3 years.
- Companies will be penalized for slip-ups in spending this quota and the

Centre can direct them to spend it.

Why is this amendment regressive?

- There’s no reason why a for-profit private enterprise should be expected to be good at executing social projects.
- Subjecting the CSR obligations of the companies by the government to a yearly quota and a short 3-year deadline is counter-productive.
- The government, as it seeks to hold companies accountable to a high bar on CSR, its own track record in utilizing its countless cess is nothing exceptional.
- India Inc can render a far greater service than these social responsibilities to society, by being compliant with tax laws, not cutting corners on labour or environmental laws, paying its MSME dues on time and treating its lenders and shareholders fairly.
- There is no justification for more back-door levies as the government already takes a lot from India Inc by way of the highest corporate tax rate in the world.

What is the way forward?

- The Centre needs to introspect whether it has imposed too many arbitrary conditions, as to the large unspent amounts reported by companies.
- Revisiting some of the unnecessary rules of the Act may help in better compliance.
- Companies taking up genuine projects should be given time to thrash out the most cost-efficient mode of delivering social impact.
- The global wave towards **Environmental, social and governance (ESG)** investing is mounting pressure for companies to be more socially responsible; the government must do its best to encourage this trend in India.

Source: Business Line

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