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Analysing developments impacting business

A WELCOME CLARIFICATION BY THE MCA – EXPENDITURE TOWARDS COVID-19 IS CSR EXPENDITURE

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Introduction

The Ministry of Corporate Affairs (MCA) on 23 March 2020 has issued a clarification that any expenditure towards various activities related to COVID-19 shall be considered an eligible corporate social responsibility (CSR) expenditure (MCA Circular).

It is evident that this MCA Circular aims at encouraging companies meeting thresholds prescribed under section 135 of the Companies Act 2013 (Act) to engage and spend towards activities that could assist in tackling widespread COVID-19 pandemic.

Analysis

Under section 135 of the Act, companies having (i) a net worth of INR five hundred crore or more, or (ii) a turnover of INR one thousand crore or more; or (iii) a net profit of INR five crores or more during the immediately preceding financial year are required to spend at least two percent of their average net profits of the three immediately preceding financial years towards CSR. The CSR committee constituted by companies are required to formulate a corporate social responsibility policy (CSR Policy) which shall indicate CSR activities that it will undertake by the companies in the areas specified in Schedule VII of the Act.

The MCA Circular clarifies that the companies can spend their CSR funds under item (i) and (xii) of Schedule VII of the Act. Item (i) of Schedule VII includes “promoting healthcare including preventing healthcare and sanitation” whereas item (xii) of Schedule VII includes “disaster management, including relief, rehabilitation and reconstruction activities.”

With this clarification, corporates can be rest assured that the expenditure incurred by them towards tackling of COVID-19 pandemic is an eligible CSR expenditure.

Comments

The Covid-19 pandemic has reached more than 100 countries. With a number of cases rising each day in India, the healthcare and related systems need urgent resources. Moreover, markets across the world are plummeting and, there is a fear that an economic impact of the pandemic could be long lasting.

At such a sensitive stage, this clarification by the MCA is a timely and welcome step. Contributions made by corporates from their existing CSR funds to the activities

specified in the MCA Circular would serve as a major support to healthcare sector and boost the rehabilitation efforts.

The MCA Circular is also in line with the MCA general circular dated 18 June 2014 wherein the MCA had clarified that the entries in Schedule VII must be interpreted liberally.

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