CHAPTER - IV
ROLE OF GOVERNMENT AND JUDICIARY IN FOSTERING CSR MECHANISM IN INDIA

4.1 INTRODUCTION

The concept of CSR brings to the forefront the human aspect of development. It reminds every professional that they are people first, and therefore, human relationships have to be managed efficiently. Development cannot be uni-dimensional, it has to cater to all the players in the economy, polity, and society. A matrix of relationships based on trust between the partners of growth needs to be established. CSR signifies the concept that it is better to have a shared interest in a successful development process than to dominate a failed, dissatisfied, socio-economic structure. As in Chapter II while analyzing history and development of CSR in India researcher has concluded that the concept of CSR or social responsibility of business is there in existence in India since ancient times. However the nature of social responsibility of business has changed or we can say has evolved with the time and the nature of state, governance (Legislature, Executive and Judiciary), economic environment i.e. economic structure and policies, implementation of these policies and role of other agencies like Non Government Organisations have played significant role in developing the framework of CSR which is modern form of Social Responsibility of Business. Therefore, the role of major institutions in the CSR process needs to be analysed and understood. Moreover, every institution can act as a check and balance on the other to ensure distributive justice in the sharing of the development synergies.
For example, the government can check the destructive growth by private industries for profit. The media and NGOs can reveal corruption and weaknesses in the government system. The system has to move beyond the laws and rules to the value arena to create a symbiotic existence among all the stakeholders. In this chapter researcher has tried to analyse the role of various organs of the governments, namely the legislature, executive, judiciary, and non-governmental organisations since they all make extremely important contributions to CSR, either directly or indirectly. There are other smaller institutions that also contribute but can be put under the aegis of the major institutions portrayed here.¹

4.2 Role of Government in Fostering CSR mechanism

The nature of Indian state is welfare state and the aim of government is to ensure social welfare of all citizens. Corporate being part of wider social set up and control vast resources must contribute in achieving this national goal. Government has been assigned the responsibility of fulfilling Constitutional mandate by enacting and implementing suitable legislative provisions for ensuring social-economic welfare of masses. And for achieving these objectives various elements of governments have taken numerous steps which have contributed in forming broad guidelines with respect to socially responsible behaviour of corporates and the important steps taken are analysed in following paragraphs.

4.2.1 Role of Government in Setting up of socio-economic goals

The government is entrusted with the responsibility of

¹ Madhumita Chatterji; Corporate Social Responsibility, Oxford University Press, 2011, P.117
setting and defining socio-economic goals for overall socio-economic development of masses. There are specialized agencies like Planning Commission, Ministry of Social Welfare & Empowerment, Ministry of Labour Welfare, Ministry of Corporate Affairs, Ministry of Health and Ministry of Education which are some of the important element of the govt. machinery which undertake this role of setting socio-economic objectives. The policies framed to achieve these goals from time to time provide the basic criteria for determining the socially responsible behavior of all the element of society including corporate.

4.2.2 Role of Government in Determination of guidelines for Socially Responsible Behaviour and setting example by implementing them in Public Sector Undertaking

After independence the government at centre and state started nationalization of various industries primarily with the aim of uplifting the condition of labourer, enhancing the employment opportunity and providing the product and services to masses at reasonable price. Various PSUs established during the phase of nationalization successfully established highest standard of labour welfare by providing adequate wages, housing, health facilities, subsidised food etc. but majority of these PSUs failed in establishing effective Corporate Governance and incurred losses. However, they succeeding in establishing broad guidelines aimed at labour welfare. Even though according to settled definition of CSR, these PSUs couldn’t successfully implement all the elements of CSR framework but provisions related to labour welfare were implemented in most of the PSUs, even the labour welfare practices of PSUs created the benchmark for Corporate. It is only the govt. which can play the most
significant role in creating such benchmark by suitable policy formulation.

4.2.3 Role of Government in Constitution of various committees on corporate governance and implementation of their recommendations

Government from time to time set up many committees on corporate governance for recommending various methods to achieve efficiency, transparency, accountability in overall corporate behaviour. The important committees constituted for corporate governance and also covering some aspects of CSR are:

- Kumar Mangalam Birla Committee, 1999
- Naresh Chandra Committee, 2002
- Narayana Murthy Committee, 2002

---

2 In early 1999, Securities and Exchange Board of India (SEBI) had set up a committee under Shri Kumar Mangalam Birla, member SEBI Board, to promote and raise the standards of good corporate governance. The report submitted by the committee is the first formal and comprehensive attempt to evolve a ‘Code of Corporate Governance’, in the context of prevailing conditions of governance in Indian companies, as well as the state of capital markets. The primary objective of the committee was to view corporate governance from the perspective of the investors and shareholders and to prepare a ‘Code’ to suit the Indian corporate environment. The recommendations were implemented through Clause 49 of the Listing Agreements, in a phased manner by SEBI.

3 The Naresh Chandra Committee was appointed as a high-level committee to examine various corporate governance issues by the Department of Company Affairs on 21 August 2002. Naresh Chandra Committee report on ‘Corporate Audit & Governance’ has taken forward the recommendations of the Kumar Mangalam Birla Committee on corporate governance which was set up by the Securities and Exchange Board of India. The committee’s recommendations mainly concerned: (i) the auditor-company relationship, (ii) disqualifications for audit assignments, (iii) list of prohibited non-audit services, (iv) independence standards for consulting, (v) compulsory audit partner rotation, (vi) auditor’s disclosure of contingent liabilities, (vii) auditor’s disclosure of qualifications and consequent action, (viii) managements’ certification in the event of auditor’s replacement, (ix) auditor’s annual certification of independence, (x) appointment of auditors, (xi) certification of annual audited a...

4 With the belief that the efforts to improve corporate governance standards in India must continue because these standards themselves were evolving in keeping with the market dynamics, the Securities and Exchange Board of India (SEBI) had constituted a Committee on Corporate Governance in 2002, in order to evaluate the adequacy of existing corporate governance practices and further improve these practices. It was set up to review Clause 49, and suggest measures to improve corporate governance standards. The Committee noted that the recommendations contained in their report can be implemented by means of an amendment to the Listing Agreement, with changes made to the existing clause 49.
The various recommendations of different committees are aimed at achieving efficiency (for remaining profitable), transparency (ensuring disclosure for investor protection for checking corporate frauds), and accountability (ethical and socially responsible behaviour). All these aspects also form part of framework of CSR. Thus recommendations of these committees also contributed in framing guidelines for socially responsible behaviour.

4.2.4 Role of Government in formulation of Voluntary Guidelines on CSR practices by the Ministry of Corporate Affairs

The Ministry of Corporate Affairs issued guidelines titled as "Corporate Social Responsibility Voluntary Guidelines: 2009" and the same are explained as under:

Each business entity should formulate a CSR policy to guide its strategic planning and provide a roadmap for its CSR initiatives, which should be an integral part of overall business policy and aligned with its business goals. The policy should be framed with the participation of various level executives and should be approved by the Board. The CSR Policy should normally cover following core elements:

---

5 Dr. JJ Irani committee formed in December, 2004 to provide useful inputs for the revision of the Companies Act, has given in its report enough pointers on the maintenance of Cost Accounting Records and the conduct of Audit thereof which will necessitate re-visit of areas covered under records rules and revision of Cost Audit provisions. While on the face of it the committee has accepted that the provisions relating to Cost Audit and Records Rules were important instruments that would enable companies make their operations efficient and exist in a competitive environment.
4.2.4.1 Care for all Stakeholders

The companies should respect the interests of, and be responsive towards all stakeholders, including shareholders, employees, customers, suppliers, project affected people, society at large etc. and create value for all of them. They should develop mechanism to actively engage with all stakeholders, inform them of inherent risks and mitigate them where they occur.

4.2.4.2 Ethical functioning

Their governance systems should be underpinned by Ethics, Transparency and Accountability. They should not engage in business practices that are abusive, unfair, corrupt or anti-competitive.

4.2.4.3 Respect for Workers' Rights and Welfare

Companies should provide a workplace environment that is safe, hygienic and humane and which upholds the dignity of employees. They should provide all employees with access to training and development of necessary skills for career advancement, on an equal and non-discriminatory basis. They should uphold the freedom of association and the effective recognition of the right to collective bargaining of labour, have an effective grievance redressal system, should not employ child or forced labour and provide and maintain equality of opportunities without any discrimination on any grounds in recruitment and during employment.

4.2.4.4 Respect for Human Rights

Companies should respect human rights for all and avoid complicity with human rights abuses by them or by third party.
4.2.4.5 Respect for Environment

Companies should take measures to check and prevent pollution; recycle, manage and reduce waste, should manage natural resources in a sustainable manner and ensure optimal use of resources like land and water, should proactively respond to the challenges of climate change by adopting cleaner production methods, promoting efficient use of energy and environment friendly technologies.

4.2.4.6 Activities for Social and Inclusive Development

Depending upon their core competency and business interest, companies should undertake activities for economic and social development of communities and geographical areas, particularly in the vicinity of their operations. These could include: education, skill building for livelihood of people, health, cultural and social welfare etc., particularly targeting at disadvantaged sections of society.

1. The CSR policy of the business entity should provide for an implementation strategy which should include identification of projects/activities, setting measurable physical targets with time frame, organizational mechanism and responsibilities, time schedules and monitoring. Companies may partner with local authorities, business associations and civil society/non-government organizations. They may influence the supply chain for CSR initiative and motivate employees for voluntary effort for social development. They may evolve a system of need assessment and impact assessment while undertaking CSR activities in a particular area. Independent evaluation may also be undertaken for selected projects/activities from time to time.
2. Companies should allocate specific amount in their budgets for CSR activities. This amount may be related to profits after tax, cost of planned CSR activities or any other suitable parameter.

3. To share experiences and network with other organizations the company should engage with well established and recognized programmes/platforms which encourage responsible business practices and CSR activities. This would help companies to improve on their CSR strategies and effectively project the image of being socially responsible.

4. The companies should disseminate information on CSR policy, activities and progress in a structured manner to all their stakeholders and the public at large through their website, annual reports, and other communication media.

4.3 National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business, 2011

The Guidelines presented herein are a refinement over the Corporate Social Responsibility Voluntary Guidelines 2009, released by the Ministry of Corporate Affairs in December 2009. Significant inputs, received from diverse stakeholder groups across the country have been duly considered, and based on these inputs; appropriate changes have been made in the original draft Guidelines produced by the Guidelines Drafting Committee. This document therefore represents the consolidated perspective of

---

7 The Ministry of Corporate Affairs (MCA), Government of India, released the National Voluntary Guidelines on CSR (December 2009), which was formulated by the Indian Institute of Corporate Affairs (IICA) set up in 2008 for this purpose. These guidelines emphasize the role of business sector in helping India achieve the goal of sustainable development and economic growth. The Guidelines provide a framework for responsible business action which can be used by all type of businesses. Extensive consultative approach has been adopted by the Guidelines Drafting Committee (GDC) for developing these guidelines
vital stakeholders in India, and accordingly lays down the basic requirements for businesses to function responsibly, thereby ensuring a wholesome and inclusive process of economic growth.

**Mandate and process:** These Guidelines have been developed through an extensive consultative process by a Guidelines Drafting Committee (GDC) comprising competent and experienced professionals representing different stakeholder groups. The GDC was appointed by the Indian Institute of Corporate Affairs (IICA) with a clear brief that the Guidelines must provide a distinctively 'Indian' approach, which will enable businesses to balance and work through the many unique requirements of our land. The process that was followed in developing these Guidelines relied heavily upon developing a consensus on various ideas that emerged from various stakeholder groups. Leading trade and industry chambers, who were represented in the GDC as well as actively engaged in the consultative process, have been key partners in the development of this consensus.

**Applicability:** The Guidelines are designed to be used by all businesses irrespective of size, sector or location and therefore touch on the fundamental aspects – the 'spirit' - of an enterprise. It is expected that all businesses in India, including multi-national companies that operate in the country, would consciously work towards following the Guidelines. The Guidelines also provide a framework for responsible business action for Indian MNCs planning to invest or already operating in other parts of the world. Businesses are encouraged to move beyond the recommended minimum provisions articulated in the document.
For business leaders and managers entrusted with the task of deploying the principles of Responsible Business, it is worthwhile to understand that business boundaries today extend well beyond the traditional walls of a factory or an operating plant and all the way across the value chain. Businesses are therefore, encouraged to ensure that not only do they follow the Guidelines for areas directly within their immediate control or within their sphere of influence, but that they encourage and support their vendors, distributors, partners and other collaborators across their value chains to follow the Guidelines as well.

The Guidelines are applicable to all such entities, and are intended to be adopted by them comprehensively, as they raise the bar in a manner that makes their value-creating operations sustainable. It needs to be emphasized that all Principles are equally important and non-divisible this implies that if a business endeavours to function responsibly, it would have to adopt each of the nine principles in their entirety rather than picking and choosing what might suit them.

**Content and Structure:** The Guidelines are not prescriptive in nature, but are based on practices and precepts that take into account the realities of Indian business and society as well as global trends and best practices adapted to the Indian context. It urges businesses to embrace the “triple bottom-line” approach whereby its financial performance can be harmonized with the expectations of society, the environment and the many stakeholders it interfaces with in a sustainable manner. The adoption of these National Voluntary Guidelines will improve the ability of businesses to enhance their competitive strengths,
improve their reputations, increase their ability to attract and retain talent and manage their relations with investors and society at large. These Guidelines have been drafted in a way that makes them easy to comprehend and implement.

The Guidelines have been articulated in the form of Nine Principles with the Core Elements to actualize each of the principles. A reading of each Principle, with its attendant Core Elements, should provide a very clear basis for putting that Principle into practice. To assist implementation, a section has also been included on developing Management Systems and Processes for responsible business, and indicators that businesses can adopt to self-steer and regulate their journey towards becoming sustainable and responsible businesses. The Processes focus on changes in leadership and the leadership structure in the organization, the integration of the Principle and Core Elements into the very business purpose of the organization and ensuring that engagement with stakeholders happens on a consistent, continuous basis.

While a broad list of Indicators has been provided to enable businesses to monitor their own implementation process, these are not exhaustive, but sufficiently representative to give a clear idea of the direction that businesses have to take in the implementation of these Guidelines.

Since these Guidelines are applicable to large and small businesses alike, a special section has also been included on how Micro, Small and Medium Enterprises (MSMEs) can be encouraged to adopt the Guidelines. Typically, the argument that MSMEs do not have the capacity or resources to implement the changes, has been juxtaposed with the idea that without a
conscious effort to adopt the Guidelines, MSMEs would lose out on future business opportunities and their ability to remain viable and socially relevant.

Finally, a separate chapter on reporting has been included so that the business entities are not only able to adopt the Guidelines but also to demonstrate the adoption to their stakeholders through credible reporting and disclosures. The reporting framework is designed on the 'Apply-or-Explain' principle which is also the fundamental basis of these Guidelines. The suggested framework takes into account the requirements of the business entities that are already reporting in other recognized frameworks as well as those which yet do not have the capacity to undertake full reporting.

Even though these guidelines are voluntary in nature but have significant persuasive value and are very essential in determining whether a corporate entity is responsible corporate citizen or not.

4.4 Formulation of National Competition Policy (At drafting stage)

National Competition Policy is formulated by the Government of India with a view to achieve highest sustainable levels of economic growth, entrepreneurship, employment, higher standards of living for citizens, protect economic rights for just, equitable, inclusive and sustainable economic and social development, promote economic democracy and support good governance by restricting rent seeking practices.

Objectives: The policy is aimed at ushering in a second

---

8 www.mca.gov.in.
wave of financial reforms. The salient features of the policy are stated below:

1. To guarantee consumer welfare by encouraging optimal allocation of resources and granting economic agents appropriate incentives to pursue productive efficiency, quality and innovation.

2. To remove anti-competition outcome of existing acts, harmonize laws and policies of Centre and State and proactively promote competition principles.

3. Strive for single national market.

4. Establish a level playing field by providing competitive neutrality.

The provisions of this policy are aimed at protection of interest of consumer who is external stakeholder, investors who are internal stakeholder. This policy also aimed to promote the ethical behaviour of corporate.

4.5 Enactment of various legislative provisions for stakeholder protection

At the time of Indian independence the economic environment was dominated by private industries and on gaining independence the state resorted to nationalization because there was constitutional mandate in respect of social and economic justice provided in preamble and various other social welfare provisions provided in Fundamental Rights and Directive Principles of State Policies and the concept of welfare state provides sufficient background for legislature to legislate suitable legislation oriented towards social welfare. Initially Indian legislations focused on labour welfare and enacted many
laws for protecting interest of labours in respect of proper working conditions, adequate wages and social security measures. Labour (who is internal stakeholder in the corporate entity) is also a common subject for the Centre and the States. Article 246(2)\(^9\) of the Constitution of India empowers the Union and the State jointly to legislate on issues relating to trade union, industrial and labour disputes, social security, social insurance, employment, and compensation including old-age pensions and maternity benefits. The following are the main enactments to protect the interest of labourers and improve their working conditions:

**Working Conditions**
- The Factories Act, 1948

**Wages**
- The Payment of Wages Act, 1936
- The Minimum Wages Act, 1948
- The Workmen’s Compensation Act, 1923
- The Equal Remuneration Act, 1976

**Social Security Legislations**
- The Employees’ Provident Funds and Miscellaneous Provisions Act, 1952
- The Employees’ State Insurance Act, 1948
- The Payment of Bonus Act, 1965

\(^9\) Article 242 (2): Notwithstanding anything in clause (3), Parliament, and, subject to clause (1), the Legislature of any State also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (in this Constitution referred to as the Concurrent List).
4.6 Salient points of some important legislation are discussed here as follows:

4.6.1 The Factories Act, 1948¹⁰

The main objective the Factories Act, 1948 is to regulate working conditions in factories and to ensure basic minimum requirements for the safety, health and welfare of the factory workers; The Act envisages regulating the working hours, leave, holidays, overtime, and employment of children, women and the young. It also safeguards against use and handling of hazardous substances and calls for safety procedures while setting up hazardous industries. The provisions of Act provide for legal and ethical responsibility of corporate in respect of safety and welfare of labour.

¹⁰ Act no. 63 of 1948, “An Act to consolidate and amend the law relating labour in factories.” (Preamble)
4.6.2 The Workmen’s Compensation Act, 1923\(^{11}\)

The passing of the Workmen’s Compensation Act in 1923 was the first step towards social security of workmen. Before passing the Act, the employer was liable to pay compensation to his workmen for injury only if the employer was proved guilty of negligence. Even when his negligence was proved, the employer could avoid his liability by putting forward any of the following defenses (i) the doctrine of assumed risk, (ii) the ideology of common employment, (iii) contributory negligence, and (iv) end of personal action with death. The main object of the Act is to provide for the payment of compensation. The theory of workmen’s compensation is that the cost of product should bear the ‘blood of workmen’. The Act considers compensation payable by an employer to his workmen in case of an accident as a measure of relief and social security. It enables to get compensation irrespective of his negligence. It also lays down the various amounts payable in case of an accident depending upon the type and extent of injury. The employer now knows the amount of compensation he has to pay and is saved from many uncertainties to which he was subject earlier. The Act applies to workmen employed in factories, mines, plantations, transport establishments, construction works, railways, ships, circuses, and other hazardous occupations and employment throughout India.

The provisions of this Act has contributed a lot in enhancing social security of labour and made this aspect the legal responsibility of the employer i.e. Corporate. The provisions of

---

11 Act No.8 of 1923, “An Act to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident. Whereas it is expedient to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident”. (Preamble)
this Act relate to stakeholder approach and covers internal stakeholder i.e. labour.

4.6.3 The Employees' State Insurance (ESI) Act, 1948

The Employees State Insurance Act, 1948 is a piece of social security legislation conceived as a means for extinction of the evil of the society. It is a landmark in the history of India. Its object is to introduce social insurances by providing for certain benefits to employee in case of sickness, maternity, employment injury and certain other matter in relation thereto. The Act is one of the compulsory state insurances providing for certain benefits secured by financial contributions to the scheme both by employers and employees. Its scope of coverage is much wider than that of the Workmen’s Compensation Act, 1923. This covers only the workers falling within the definition. In the ESI Act, all persons employed for wages are covered subject to the limit of remuneration fixed by the statute.

The ESI contribution by workmen as well as employer is the legal responsibility of the employer and many related issues form part of ethical responsibility also. This Act is an important social security legislation which labour i.e. internal stakeholder.

4.6.4 The Employees’ Provident Fund (EPF) and Miscellaneous Provisions Act, 1952

The EPF Act is a social security legislation to provide for provident fund, family pension fund, and insurance to employees.

---

12 Act No. 34 of 1948, “An Act to provide for certain benefits to employees in case of sickness, maternity and employment injury and to make provision for certain other matters in relation thereto. Whereas it is expedient to provide for certain benefits to employees in case of sickness, maternity and employment injury and to make provision for certain other matters in relation thereto (Preamble).

13 Act No. 19 of 1952, “An Act to provide for the Institution of provident funds, pensions fund and deposit-linked insurance fund for employees in factories and other establishments.” (Preamble)
The scheme induces the employees to save a portion from their present earnings for the rainy day by paying contribution towards provident fund. The employer also pays equal contribution. The employee gets a lump sum amount when he retires. The Act is applicable to factories, and establishments employing 20 or more persons.

This Act also makes contribution to EP Fund by the employer for workmen a legal responsibility towards internal stakeholder i.e. labour and being social security legislation also forms part of CSR framework.

4.6.5 The Payment of Gratuity Act, 1972

Gratuity is kind of retirement benefit, like provident fund or pension. The Payment of Gratuity Act provides for a scheme for the payment of gratuity for employees engaged in factories, mines, oilfields, railway companies etc. It is sort of reward for the services rendered.

This Act has made an act of social welfare of labour a legal responsibility of the employer. It may be mentioned that this legislation is a welfare legislation because the paramount consideration is the welfare of employees by abiding the principles of law which indicates the legal responsibility of corporate in their social responsibility towards society.

4.6.6 The Industrial Disputes Act, 1947\(^\text{14}\)

The Industrial Disputes Act was enacted to secure industrial peace and harmony by providing machinery and

\(^{14}\) Act No. 14 of 1947, An Act to make provision for the investigation and settlement of industrial disputes, and for certain other purposes. Whereas it is expedient to make provision for the investigation and settlement of industrial disputes, and for certain other purposes hereinafter appearing (Preamble).
procedure for the investigation and settlement of industrial disputes by negotiations instead of by trial strength through strikes and lockouts. This legislation is calculated to ensure social justice to both employers and employees and thereby promote industrial progress.

This Act also puts obligations on employer and employees to maintain Industrial peace. Now the maintenance of Industrial Relation is also a legal responsibility and is part of CSR framework. The application of these kind of social legislations always makes sure the good relationships between employer and employees which is good for overall development of industries and social development of the employees. The compliance of the legal provisions shows that corporates are very keen to comply with the labour laws which is a part of legal responsibility of the corporates.

4.6.7 The Trade Unions Act, 1926

The Trade Unions Act provides for registration of trade unions (including association to employers) with a view to render lawful organisation of labour to enable collective bargaining. It also protects the privileges of registered trade unions.

This Act provides for compulsory recognition of one Trade Union in the Industry by the employer. This is the legal responsibility of the employer, and along with legal responsibility there are many ethical responsibilities like promoting formation of Associations and Industrial Peace and engaging these Unions for maintaining healthy Industrial

15 Act No. 16 of 1926, An Act to provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions (Preamble).
relation. These responsibilities form part of legal and ethical responsibilities of broad CSR framework.

Therefore, the philosophy and objectives of various labour welfare legislation became the guiding factor for determining the activities which corporates should undertake in addition to fulfilling mandatory statutory requirement, for being socially responsible and the practices which can be brought in the ambit of Corporate Social Responsibility with respect to Labour Welfare are following:

A. The provisioning of quality equipments, machinery and protective gears for ensuring maximum possible protection to physical health of workers.
B. Provisioning of not only minimum or adequate but respectable wages.
C. Profit sharing with workers by timely payment of adequate bonus.
D. Providing necessary infrastructure and other help to Trade Unions without interfering in their functioning.
E. Avoiding employment of casual or contract labour in place of regular employees even if permitted by law.
F. Ensuring safety & dignity of women workers.
G. Provisioning of not only basic education, housing and health facilities but of quality education, health services and housing with all recreational facilities not only for the workers but also for their dependents
H. Ensure continuation of employment to the maximum possible extent and to resort to non-employment by way of layoff, retrenchment etc. only in case of extreme compulsory circumstances.
It is very important to mention here that the above discussed labour welfare legislations are very important in establishing the legal responsibility of corporate sector. But the legal compliance only on papers if not sufficient rather the companies should focus on real and true welfare of labour by giving them good and protective working environment which definitely a part of social responsibility of corporates.

4.7 Environmental Laws

Similarly, legislature has enacted numerous legislations for environment protection and objectives of these legislation taken together have contributed a lot in developing a comprehensive set of guidelines for not only protecting and preserving the environment but also for replenishing, enhancing and developing the environment and some of the important legislations for environment protection has been analysed by the researcher to ascertain the base formed by them to develop the concept of socially responsible behaviour by corporates in respect of environment protection and development and these legislations are:

4.7.1 The Environment (Protection) Act 1986\textsuperscript{16}

The Environment (Protection) Act 1986 authorizes the central government to protect and improve environmental quality, control and reduce pollution from all sources, and prohibit or restrict the setting and/or operation of any industrial facility on environmental grounds. Thus protection of this universe is only

\textsuperscript{16} Act No. 29 of 1986, An Act to provide for the protection and improvement of environment and for matters connected there with: whereas the decisions were taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1972, in which India participated, to take appropriate steps for the protection and improvement of human environment; and whereas it is considered necessary further to implement the decisions aforesaid in so far as they relate to the protection and improvement of environment and the prevention of hazards to human beings, other living creatures, plants and property (Preamble).
possible with the protection of environment. It is duty of every person (Natural and legal) to protect and preserve the climate for future generation. The corporates can participate in nation building by effective adherence of the provisions of environment protection Act by performing their legal & ethical responsibility towards society and government.

4.7.2 The Environment (Protection) Rules 1986

The Environment (Protection) Rules 1986 lay down procedures for setting standards of emission or discharge of environmental pollutants. In this regard it is pertinent to mentioned here that the company must establish the proper infrastructure in their business premises which can helpful in reducing harm to the environment while processing of hazardous substances in their industrial processes.

4.7.3 The Public Liability Insurance Act, 1991

The Public Liability Insurance Act, 1991 was drawn up to provide for public liability insurance for the purpose of providing immediate relief to the persons affected by accident while handling any hazardous substance.

4.7.4 The National Environmental Tribunal Act, 1995

The National Environmental Tribunal Act, 1995 has been

---

17 Act No. 6 of 1991, An Act to provide for public liability- insurance for the purpose of providing immediate relief to the persons affected by accident occurring while handling any hazardous substance and for matters connected therewith or incidental thereto (Preamble).

18 Act No. 27 of 1995, An Act to provide for strict liability for damages arising out of any accident occurring while handling any hazardous substance and for the establishment of a National Environment Tribunal for effective and expeditious disposal of cases arising from such accident, with a view to giving relief and compensation for damages to persons, property and the environment and for matters connected therewith or incidental thereto. Whereas decisions were taken at the United Nations Conference on Environment and Development held at Rio de Janeiro in June, 1992, in which India participated, calling upon the States to develop national laws regarding liability and compensation for the victims of pollution and other environmental damages; and whereas it is considered expedient to implement the decisions of the aforesaid Conference so far as they relate to the protection of environment and payment of compensation for damage to persons, property and the environment while handling hazardous substances (Preamble)
created to award compensation for damages to persons, property, and the environment arising from any activity involving hazardous substances.

The above mentioned legislation has made the protection of environment a legal responsibility. Here preventing the damage to environment is a legal responsibility and recharging/contribution towards environment is an ethical responsibility. Both these aspects are part of CSR framework.

4.7.5 Forest and Wildlife

4.7.5.1 The Indian Forest Act 1927\(^{19}\)

The Indian Forest Act 1927 is one of the many surviving colonial statutes. It was enacted to ‘consolidate the law related to forest, the transit of forest produce, and the duty leviable on timber and other forest produce’. The relevance of this statue in the present research is that corporates while performing their legal and ethical responsibility must take care forest preservation while doing their business activities. The corporates must ensures their profit making alongwith the protection of environment and social development of people residing in the forest areas where the their business operations are carried away.

4.7.5.2 The Wildlife Protection Act 1972\(^{20}\)

The Wildlife Protection Act 1972 provides for the protection of birds and animals and for all matters that are connected to it whether it be their habitat or the waterhole or the forests that sustain them. The provisions of this statute motivates

\(^{19}\) Act No. 16 of 1927, An Act to consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce (Preamble).

\(^{20}\) Act No. 53 of 1972, An Act provides for the protection of Wild animals, birds and plants and for matters connected therewith or ancillary or incidental thereto (Preamble).
the corporates to think over the importance of wildlife for survival of this universe as they are also part of it. Many corporate entities are actively participating in the movements aimed at protecting wildlife such as ‘Save our tiger’ campaign launched by Aircel and NDTV which supports those initiatives which help in protecting tigers from the poachers.

4.7.5.3 The Forest (Conservation) Act 1980

The Forest (Conservation) Act, 1980 provides for the protection of and the conservation of the forests. This Act ensures the importance of forest conservation and role of all the stakeholders in conservation activities.

4.7.6 Water

4.7.6.1 The Easement Act, 1882 allows private rights to use a resource that is, groundwater, by viewing it as an attachment to the land. It also states that all surface water belongs to the state and is a state property.

4.7.6.2 The Indian Fisheries Act, 1897 establishes two sets of penal offences whereby the government can sue any person who uses dynamite or other explosive substance in any way (whether coastal or inland) with intent to catch or destroy any fish or poisonous fish in order to kill.

4.7.6.3 The River Boards Act, 1956 enables the states to enroll the central government in setting up an Advisory River Board to

---

21 Act No. 69 of 1980, An Act to provide for the conservation of forests and for matters connected therewith or ancillary or incidental thereto (Preamble).
22 Act No. 5 of 1882, An Act to define and amend the law relating to Easements and Licenses. Whereas it is expedient to define and amend the law relating to Easements and Licenses (Preamble).
23 Act No. 4 of 1897, An Act to provide for certain matters relating to Fisheries. Whereas it is expedient to provide for certain matters relating to fisheries (Preamble).
24 Act No. 49 of 1956, An Act to provide for the establishment of River Boards for the regulation and development of inter-State rivers and river valleys (Preamble).
resolve issues in inter-state cooperation.

4.7.6.4 The Water (Prevention and Control of Pollution) Act, 1974\textsuperscript{25} establishes an institutional structure for preventing and abating water pollution. It establishes standards for water quality and effluent. Polluting industries must seek permission to discharge waste into effluent bodies.

4.7.6.5 The Water (Prevention and Control of Pollution) Cess Act, 1977\textsuperscript{26} provides for the levy and collection of cess or fees on water consuming industries and local authorities.

4.7.7 Air

The Air (Prevention and Control of Pollution) Act, 1981\textsuperscript{27} provides for the control and abatement of air pollution. It entrusts the power of enforcing this act to the CPCB.

\textsuperscript{25} Act No. 6 of 1974, An Act to provide for the prevention and control of water pollution and the maintaining or restoring of wholesomeness of water, for the establishment, with a view to carrying out the purposes aforesaid, of Boards for the prevention and control of water pollution, for conferring on and assigning to such Boards powers and functions relating thereto and for matters connected therewith. Whereas it is expedient to provide for the prevention and control of water pollution and the maintaining or restoring of wholesomeness of water, for the establishment, with a view to carrying out the purposes aforesaid, of Boards for the prevention and control of water pollution and for conferring on and assigning to such Boards powers and functions relating thereto; and whereas Parliament has no power to make laws for the States with respect to any of the matters aforesaid except as provided in articles 249 and 250 of the Constitution; and whereas in pursuance of clause (1) of article 252 of the Constitution resolutions have been passed by all the Houses of the Legislatures of the States of Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Karnataka, Kerala, Madhya Pradesh, Rajasthan, Tripura and West Bengal to the effect that the matters aforesaid should be regulated in those States by Parliament by law (Preamble).

\textsuperscript{26} Act No. 36 of 1977, An Act to provide for the levy and collection of a cess on water consumed by persons carrying on certain industries and by local authorities, with a view to augment the resources of the Central Board and the State Boards for the Prevention and Control of Water Pollution constituted under Water (Prevention and Control of Pollution) Act, 1974 (Preamble).

\textsuperscript{27} Act No. 14 of 1981, An Act to provide for the prevention, control and abatement of air pollution, for the establishment, with a view to carrying out the aforesaid purposes, of Boards, for conferring on and assigning to such Boards powers and functions relating thereto and for matters connected therewith. Whereas decisions were taken at the United Nations Conference on the Human Environment held in Stockholm in June, 1972, in which India participated, to take appropriate steps for the preservation of the natural resources of the earth which, among other things, include the preservation of the quality of air and control of air pollution; and whereas it is considered necessary to implement the decisions aforesaid in so far as they relate to the preservation of the quality of air and control of air pollution (Preamble).
So, after analyzing the basic objectives of above legislations it can be concluded legislature has tried to cover every minute aspect of environment degradation then ensuring the protection of these aspect with appropriate legislation. The objectives of these legislations have helped in developing a comprehensive set of practices/activities which corporate must undertake to not only abide by the law but also to behave ethically by minimizing the environment pollution to the maximum possible extent and to undertake measure to maintain and develop the environment. These environment friendly activities which can be brought under the ambit of Corporate Social responsibility are as:

(a) Locating industries in such areas where there is minimum consumption and damage to natural resources like agricultural land, river water, forest and wildlife and habitats even if such location is costlier than locating it any other convenient industrial pockets.

(b) Not only replenishing the lose and damage to environment caused by industrial activities but contributing in further developing and enhancing the quality of environment like promoting forestation etc.

(c) Promoting the production and use of environment friendly energy resources like solar energy and wing energy in place of thermal or hydrocarbon energy.

(d) Framing of such guidelines in respect of industrial activities which not only aim for achieving the target of environment protection stipulated by legislative provisions rather aim to achieve maximum possible environment protection.
(e) Use of those machinery and techniques which are environment friendly like high fuel efficient motors and engines, use of instruments causing minimum noise pollution, use of techniques which requires minimum water and use minimum hazardous substance in the process of industry even if their procreation and use involve high cost than traditional machinery/ techniques.

(f) Over and above active participation on the part of corporates for spreading awareness and educating the various elements of society regarding protection and preservation of natural climate and resources.

The next important stakeholder with respect to corporate activity is consumer, primarily on the basis of following points:

A Since the faith of success or failure of any business entity depends upon the acceptance or rejection of its products/services by consumers and;

B It is the consumer which pays the price for the product/services available as a result of that industrial activity, for consumption/use. Legislature in India have recognized these aspects of corporate consumer relationship (stakeholder approach) and has enacted many laws for protection of interest of consumer against the access of corporate. The objectives of important consumer protection legislation have been analyzed here for ascertaining the area which has been regulated by the act and the manner in which they promote the socially responsible behavior towards consumers.
Consumer Welfare Legislations

4.8 The Prevention of Food Adulteration Act, 1954

Food is one of the basic necessities for sustenance of life. Pure, fresh and healthy diet is most essential for the health of the people. It is no wonder to say that community health is national wealth. Adulteration of food-stuffs was so rampant, widespread and persistent that nothing short of a somewhat drastic remedy in the form of a comprehensive legislation became the need of the hour. To check this kind of anti-social evil a concerted and determined onslaught was launched by the Government by introduction of the Prevention of Food Adulteration Bill in the Parliament to herald an era of much needed hope and relief for the consumers at large. The Bill replaces all local food adulteration laws where they exist and also applies to those States where there are no local laws on the subject. Among others, it provides for-

(i) a Central Food Laboratory to which food samples can be referred to for final opinion in disputed cases (clause 4),

(ii) a Central Committee for Food Standards consisting of representatives of Central and State Governments to advise on matters arising from the administration of the Act (clause 3), and

(iii) the vesting in the Central Government of the rule-making power regarding standards of quality for the articles of food and certain other matters (clause 22).

4.9 The Consumer Protection Act, 1986

The main objective of the Consumer Protection Act is to promote and protect the rights of consumers. It does not cover sale of land and immovable property. Its salient features include:

- Applies to all goods and services unless specifically exempted by the Central Government
- Covers all sectors - private, public or co-operative
- Confers certain rights on consumers
- Envisages establishment of consumer protection councils at the Central, State and district levels
- The provisions of the Act are in addition to, and not in derogation of, the provisions of any other Act.
- Rights of consumers
  (i) Right to safety
  (ii) Right to be informed
  (iii) Right to choose
  (iv) Right to be heard
  (v) Right to seek redresses
  (vi) Right to consumer education

---

29 Act No.68 of 1986, An Act to provide for the better protection of the interests of consumers and for that purpose to make provision for the establishment of consumer councils and other authorities for the settlement of consumers' disputes and for matters connected therewith (Preamble).
4.10 Competition Act, 2002

The Competition Act, 2002 seeks to ensure fair competition in India. It prohibits trade practices which cause appreciable adverse effect on competition in markets within India. For this purpose, it provides for the establishment of, ‘a quasi-judicial body, to be called the Competition Commission of India (CCI) which shall also undertake advocacy for creating awareness and imparting training on competition issues. The Bill also aims at curbing negative, aspects of competition through the medium of CCI.

**Purpose of the Act**: As per the Preamble to the Act, it is to provide, keeping in view of the economic development of the country, for the establishment of a commission to prevent practices having adverse effect on, and to promote and sustain, competition in markets, to protect the interests of consumers and ensure freedom of trade carried on by other participants in markets, in India, and for matters connected therewith or incidental thereto. Thus, the main purpose of Act is to ensure free and fair competition in market. Overall scheme: The Act is designed for the following purposes:

- Prohibition of anti-competitive agreement
- Banning abuse of dominant position
- Regulation of competition.

---

30 Act No. 12 of 2003, An Act to provide, keeping in view of the economic development of the country, for the establishment of a Commission to prevent practices having adverse effect on competition, to promote and sustain competition in markets, to protect the interests of consumers and to ensure freedom of trade carried on by other participants in markets, in India, and for matters connected therewith or incidental thereto (Preamble).
31 www.cci.gov.in
4.11 The Standards of Weights and Measures Act, 1976\textsuperscript{32}

The Act is another piece of consumer welfare legislation. The Standard of weights and measures Act, 1976, aims at introducing standard in relation to weights and measures used in trade and commerce. The ultimate objective is to subserve the interests of the consumers. The purpose of this Act is to:-

i) Replace the bewildering varieties of weights and measures in use in the country by standards based on the metric system

ii) Provide better protection to consumers by ensuring accuracy in weights and measures

4.12 The Agriculture Produce (Grading and Marketing) Act, 1937\textsuperscript{33} (AGMARK)

The AP (G&M) Act, 1937 is the first legislation enacted for the quality control of Agril Produce by the Central Govt. The directorate has laid down grade standards under this Act. These are popularly known as Agmark Grades. The Act is permissive in nature and the grading is voluntary. The directorate with the active cooperation of State/UT Governments is implementing the grading programme.

Objective:

(1) to notify the agricultural commodities for which grade standards are to be prepared under this act.

(2) to prepare standards for agricultural commodities popularly

\textsuperscript{32} An Act to establish standards of weights and measures, to regulate trade or commerce in weights, measures and other goods which are sold or distributed by weight, measure or number, to provide for matters connected therewith or incidental thereto (Preamble).

\textsuperscript{33} Act No. 1 of 1937, An Act to provide for the grading and marking of agricultural and other produce. Whereas it is expedient to provide for the grading and marking of agricultural and other produce (Preamble).
known as “agmark standards”

(3) to implement the grading of agricultural commodities on the basis of agmark standards

(4) to make rules to carry out the provisions of this act

(5) fixing the grade designation to indicate the quality of any scheduled article

After analyzing the objectives of above provisions it is amply clear that legislature intended to protect the interest of consumer by way of putting responsibility on the shoulder of corporate (producer, manufacturer, supplier and service provider etc.) in respect of quality of product, safety of health, body and life of consumer, and protection of consumer from harassment and blackmailing by corporate (producer, manufacturer, supplier and service provider etc.) in respect of price and availability of critical goods. The practice of following these provisions results in discharging legal obligations and these provisions only frame the standards which needs to be achieved by the corporate in their relation with consumer for becoming socially responsible and they may be summarized as follows:

• Reasonable pricing of product i.e. pricing not with the aim of maximizing profit but with aim of achieving reasonable profit.

• Delivery of quality which help it making brand image

• Fulfilling all the commitments with respect to after sale support.

• Achieving highest level of consumer satisfaction.

• Avoiding deceptive pricing and following the practices of sufficient declaration.
Legislature in India has recognized the importance of social responsibility of business and therefore has enacted legislations which incentivize the contribution by the corporates in the form of donation and charity for social welfare. There are provisions in the Income Tax Act, 1961 which provide for rebate in taxes on the amount contributed towards charity by way of donation or undertaking any social welfare activity. The relevant provisions of the Income Tax Act, 1961 has provided the following provisions for promoting social development programmers.

**Section 35 AC:** 100% of the donations made to a local authority or an association institutor approved by a committee constituted by the Union Government for carrying out any project to promote social and economic welfare of the public, as Union Government may notify, can be deducted from income.34

**Section 35 CCA:** 100% of the donation made to associations and institutions approved by the government that are involved in rural development can be, deducted from the income. The donation could also be made to institutions that train people for rural development or to the National Urban Poverty Eradication Fund.

**Section 35 CCB:** 100% of the donation made to associations and institutions approved by the government working for the conservation of natural resources or for afforestation can be deducted from the income.

**Section 80 G:** 50% of the donation made to voluntary organisations, trusts, and charitable institution that are approved by the government can be deducted from the income;

34 www.cbdt.gov.in
All these concessions are aimed to promote philanthropy by the corporates and in historical perspective of CSR where CSR was associated only with philanthropy these provisions of the Income Tax Act formed the initial structure of legal framework by which philanthropic responsibility of corporate was legally recognized.

So, after comprehensive examination of all these legislative provisions researcher deduces that these provisions do not create any legal mechanism for the concept of CSR. However they become the guiding principles on which the comprehensive set of activities which can be included in the scope of CSR are determined and undertaken by the corporate for becoming socially responsible. While analyzing objectives of these provisions in the context of various approaches to CSR provided in Chapter I of this research it is clear that these provisions relate to stakeholders and cover especially the external stakeholders except labour who are internal stakeholder.

There are many other internal stakeholders and legislature has from time to time enacted many important legislations which relate protection of interest of internal stakeholders. Some of the important legislative provisions for regulating the corporate behaviour with specific reference to internal stakeholders are:

4.13 **Companies Act, 1956**<sup>35</sup>

The Companies Act, 1956 was enacted with the object to amend and consolidate the law relating to companies and certain other associations following the recommendations of the

---

<sup>35</sup> Act No. 1 of 1956, An Act to consolidate and amend the law relating to companies and certain other associations.
Company Law Committee, known as the Bhaba Committee, set up in 1950. Simultaneously, Companies Act, 1913, then in force was repealed. In our country, the Companies Act, 1956 primarily regulate the range of activities from formation to liquidation and winding up of Companies. Regulation of corporate governance, structure and obligations of companies towards their stakeholders, investigation and enforcement and company process such as mergers / amalgamations / arrangements / reconstructions etc. constitute the main focus of the Act. The Companies Act thus enables a statutory platform for essential corporate Governance requirements essential for functioning of the Companies with transparency and accountability, recognizing and protecting the interests of various stakeholders.

Many changes have taken place in the national and international economic environment after the enactment of the existing Act which have happened particularly during the last two to three decades. The resultant expansion and growth of the Indian economy have increased the options and avenues for more international business opportunities and investment. In the light of this background, modernization of corporate regulation governing setting up and running of enterprises, structures for sharing risk and reward, governance and accountability to the investors and other stakeholders and structural changes in the law commensurate with global standards have become critical for the maintenance and enhancement of a vibrant corporate sector and business environment.

The Indian economy is now more diverse, complex and dynamic. In this milieu, the corporate form of organization has increasingly emerged as the preferred vehicle for economic and
commercial activity, with large scale mobilization of resources from the public. The number of companies has expanded from about 30,000 in 1956 to more than 8 lakh. Companies are now entering into and bringing new activities into the fold of the Indian economy, exporting a wide range of goods and services and providing employment opportunities to a diverse range of professions and trades. Many Indian companies have become global and expanded their operations beyond Indian borders with a spate of mergers and acquisitions abroad. Thus, the corporate form has not only contributed significantly to the growth of the national economy, but has helped Indian entrepreneurs to carve out a place for themselves in the world economy as well. In the backdrop of these developments, a need was felt to help sustain this growth by putting in place a legal framework that would enable the Indian corporate sector to operate in an environment of best international practices in a globally competitive manner, while fostering a positive environment for investment and growth. Revisions have been made from time to time in the Companies Act, 1956 to address requirements of the times. There have been as may as 25 amendments made so far.

In view of recommendations made by Irani Committee\(^{36}\) and other inputs available with the Ministry, a draft Bill was prepared in consultation with various stakeholders including concerned Ministries/Departments and accordingly, a new Companies Bill, 2008 was introduced on 23rd October, 2008 in the Lok Sabha and the Companies (Amendment) Bill, 2003, pending in the Rajya Sabha, was withdrawn on the same day. Due to dissolution of 14th Lok Sabha, the Companies Bill, 2008 lapsed. The

\(^{36}\) Supra note 5.
Government then introduced the Companies Bill, 2009 in the Lok Sabha on 3rd August, 2009.

The Standing Committee on Finance (2009-2010) first time suggested the provisions to be added on CSR in the Companies Bill, 2009. Further on the issue of Corporate Social Responsibility, during evidence, the Committee raised their concerns on the role of corporates in discharging their social responsibilities and recommended that there was no mention in the earlier Companies Act about corporate social responsibility. We are just mentioning that there will be a Corporate Social Responsibility Policy in each and every company beyond a certain limit, which are profitable companies and which are of certain size. The Committee has also mentioned that this is the first time and historically it may be the first time in the world is that we are putting the Corporate social responsibility in the law itself that every company beyond the certain limit should have a corporate social responsibility policy. This is something we cannot mandate beyond that, but we are making a provision in the law itself.

Accordingly, it was felt by the Committee that the Bill may include provisions to mandate that every company having [(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 a year] shall be required to formulate a CSR policy to ensure that every year at least 2% of its average net profits during the three immediately preceding financial years shall be spent on CSR activities as may be approved and specified by the company. The directors shall be required to make suitable disclosures in this regard in their report to members and;
In case any such company does not have adequate profits or is not in a position to spend prescribed amount on CSR activities, the directors would be required to give suitable disclosure/reasons in their report to the members.

If we go into the background of how we get the idea of mandatory CSR provisions it is important to mentioned here that it was started from the introduction of Companies Bill, 2008. The Standing Committee on Finance has obtained suggestion from organizations/experts as also written information on the aforesaid Bill from the Ministry of Corporate Affairs. Taking into account the principles enunciated in the Report of the Irani Committee and views, comments and suggestions received by the Ministry from various quarters, the Companies Bill, 2008 was prepared. The Companies Bill 2008 was introduced in the Lok Sabha, which was subsequently referred to the Parliamentary Standing Committee on Finance for examination and report. However, before the Committee could present its report, 14th Lok Sabha was dissolved and the Companies Bill, 2008 lapsed as per clause (5) of Article 107 of the Constitution of India. In view of this, it was proposed to re-introduce the Companies Bill, 2008 as the Companies Bill, 2009, without any change except for the Bill year and the Republic year. The Companies Bill, 2009 accordingly, was introduced in the Lok Sabha on 3rd August, 2009.

After introduction, the Companies Bill, 2009 was referred to Parliamentary Standing Committee on Finance for examination and report. The Committee\textsuperscript{37} examined the same in detail in

\textsuperscript{37} Report of Standing Committee on Finance (2009-2010)
consultation with various stakeholders including the administering Ministry and submitted a comprehensive Report to the Parliament on 31st August, 2010. Keeping in view the recommendations made by the Standing Committee, a revised Companies Bill, 2011 was prepared which was approved by the Cabinet on 24th November, 2011. This Bill was introduced in the Lok Sabha on 14th December, 2011. The Hon‘ble Speaker referred the Bill to Parliamentary Standing Committee on Finance on 5th January, 2012 as certain new provisions were included in the Bill, which were not earlier referred to the Committee during the examination of Companies Bill, 2009.  

Accordingly the Ministry of Corporate Affairs has accepted most of the recommendations made by the Committee in their earlier Report (21st Report) on the Companies Bill, 2009 and have been incorporated in the Companies Bill, 2011 and 2012. The Committee is of the view that corporates in general are expected to contribute to the welfare of the society in which they operate and wherefrom they draw their resources to generate profits. Accordingly, the Committee recommended that Clause 135(5) of the Bill mandating Corporate Social Responsibility (CSR) be modified by substituting the words “shall make every endeavor to ensure” with the words “shall ensure”. Further, the Committee recommends that the said clause shall also provide that CSR activities of the companies are directed in and around the area they operate.

In view of above recommendations of Standing Committee the adequate guidelines, framework and provisions for

38 Report of Standing Committee on Finance (2011-2012)
establishing CSR mechanism has been incorporated in the Company Bill 2012 which are as under:

**Clause 135:**

(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 any 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.

The new Companies Bill makes it mandatory for companies above thresholds to spend 2% of their net profit on corporate social responsibility (CSR) activities.

(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:

1. Formulate and recommend to the Board, a Corporate Social Responsibility Policy which shall indicate the activities to be undertaken by the company as specified in Schedule VII;

2. Recommends the amount of expenditure to be incurred on the activities referred to in clause (1); and

3. Monitor the Corporate Social Responsibility Policy of the company from time to time.  

(4) The Board of every company referred to in sub-section (1) shall:

---

39 Companies Bill, 2012
1. 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

2. 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 “average net profit” shall be calculated in accordance with the provisions of section 198 of Companies Bill, 2012.

Areas in which the CSR activities needs to be undertaken by the companies are provided in SCHEDULE VII of the proposed Bill and they are as follows:

---

40 Companies Bill, 2012 as passed in Lok Sabha.
1. Eradicating extreme hunger and poverty;
2. Promotion of education;
3. Promoting gender equality and empowering women;
4. Reducing child mortality and improving maternal health;
5. Combating human immunodeficiency virus, acquired immune deficiency syndrome, malaria and other diseases;
6. Ensuring environmental sustainability;
7. Employment enhancing vocational skills;
8. Social business projects;
9. Contribution to the Prime Minister’s National Relief Fund or any other fund set up by the Central Government or the State Governments for socio-economic development and relief and funds for the welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women; and
10. Such other matters as may be prescribed.

It is important to mention here that the financial limits of turnover are on higher sides thus excludes many medium and small enterprises which are major chunk of the corporate in India, moreover the above Bill also fails to address squarely the fostering issue of corporate delinquency. The promoters of companies should be held liable for acts of omission and commission by the company together with the senior management including the Board of Directors. Both Civil and criminal liabilities have to be fixed for acts of corporate delinquency.

41 Companies Bill, 2012 as passed in Lok Sabha.
42 http://www.indiantaxupdates.com/2013/01/05/salient-features-of-companies-bill-2012-on corporate-social-responsibility
Whistle-blowers, who expose such acts, should be protected by law.

Further, it is a well-perpetuated fallacy that corporate are run on the promoters’ or shareholders’ funds alone. The fact of the matter is that most of the capital required by corporate both long-term and medium-term is provided by the banking/financial system, which is operated out of the public funds. Therefore, if corporate are mandated to undertake CSR, it is very fair and logical and a natural corollary of the nature of capital invested in them. It need not be over-stated that the corporate owe it to the people and the society to pay them back in terms of social services and by building social capital for common good. This cannot be the sole responsibility of governments.

In this regard the accountability requires to be fixed for both individual Auditors and their firms. Auditors should be appointed from a panel to be maintained by an independent body, which will ensure their independence from the management. Their removal should also be vetted by this independent body, so that they can function without any fear. (Accountability and Independence of Auditors). These provisions are actually laying the foundation for effective regulation of CSR aspects.


The SEBI Act provides guidelines for capital issues of the corporate for protecting the interests of the investors. Its objectives are to:

---

43 Act No. 15 of 1992, An Act to provide for the establishment of a Board to protect the interests of investors in securities and to promote the development of, and to regulate, the securities market and for matters connected therewith or incidental thereto.
• promote integrity in dealings, a ‘high standard of conduct, and good business practices;
• prohibit fraudulent and unfair trade practices relating to securities;
• enhance promote investor’ confidence;
• regulate and develop a code of conduct and fair practices by intermediaries such as brokers and merchant bankers with a view to making them more competitive and professional;
• work for orderly and healthy growth of the security markets;
• regulate of the security markets and other incidental markets;
• promote fair dealings by the issuer of securities and ensure a marketplace where they can’ raise funds at a relatively low cost; and
• monitor the activities of, stock exchanges, mutual funds, and merchant bankers.

The above provisions of the Act are basically aimed at achieving high level of efficient Corporate Governance so as to ensure investor protection, to check corporate frauds, to bring transparency in financial matters by way of audit & inspection, to check illegal investments and to promote responsible corporate behaviour by way of various checks and balances with the help of above mentioned provisions.

Thus the important legislations for regulating the entire corporate structure and for dealing with various aspects of governance in companies are Companies Act, 1956 and Companies Bill, 2004. These laws have been introduced and amended, from time to time, to bring more transparency and
accountability in the provisions of corporate governance. That is, corporate laws have been simplified so that they are amenable to clear interpretation and provide a framework that would facilitate faster economic growth. Secondly, the Securities Contracts (Regulation) Act, 1956\(^{44}\), Securities and Exchange Board of India Act, 1992 and Depositories Act, 1996\(^{45}\) have been introduced by Securities and Exchange Board of India (SEBI), with a view to protect the interests of investors in the securities markets as well as to maintain the standards of corporate governance in the country.

After analyzing all these provisions it is concluded that Indian legislature played significant role by way of enacting numerous legislation for protecting the interest of various stakeholders with respect to corporate activities. These protective legislations have basically contributing in establishing and developing the concept of CSR. The legal framework supporting CSR is very comprehensive. The government has its own form, structure, style and philosophy. Depending on the nature of the government at work, business has to organize its activity. Starting with a particular ideology or philosophy, the: government of every country formulates and executes a set of policies and programmers. Quite a few of these policies are executed through these legislations. These legislations and guidelines constitute the politico-legal environment. Various socio-economic legislations subject to which business operates constitute the legal environment.

\(^{44}\) Act No. 42 of 1956: An Act to prevent undesirable transactions in securities by regulating the business of dealing therein, by providing for certain other matters connected therewith (Preamble).

\(^{45}\) Act No. 22 of 1996: An Act to provide for regulation of depositories in securities and for matters connected therewith or incidental thereto (Preamble).
Corporate Social Responsibility is the concept that an enterprise is accountable for its impact on all relevant stakeholders. By expressing their social responsibility, companies are affirming their role in social and territorial cohesion, quality and environment. Ultimately, the firms need to take on corporate social responsibility. However, it poses challenges to policy-makers to develop or adapt to policies and legislation in order that they may support and promote the broad framework of CSR and also to make the business aware of it. Corporate will have to develop a sensitive awareness of their responsibility for maintaining an equitable balance among the claims of stockholders, employees, customers and public at large. The laws are enacted to protect the business interests of various groups in society, and are needed to protect consumers, workers, managers, owners, shareholders, and society at large: The success depends upon cooperation and ‘coordination with socio-economic & legal environments. Social responsibility in present scenario needs to be suitably regulated and for this there is constitutional mandate and a comprehensive legislative framework is already in existence. However contribution to philanthropy or the aspect of philanthropic responsibility is purely on voluntary basis and are not yet regulated but some aspects related to contribution towards philanthropic activities needs to be coordinated and regulated to an extent to avoid channelizing of illegal money or investment of philanthropy fund for illegal purposes. Co-ordination by way of regulation is required for optimum utilization of resources. So researcher concludes that economic responsibility and legal responsibility aspects of CSR framework are adequately regulated. Their implementations issues are dealt within a
separate mechanism. However, the aspects of ethical and philanthropic responsibility also need to be regulated to an extent that they also serve the interest of public at large.

Government’s role in Encouraging Corporates to adopt and follow voluntary guidelines issued by various international organisations with respect to Socially Responsible Behaviour:

Globalization has influenced trade all over the world; Today, we are in the era of MNCs who are running business entities in number of countries simultaneously. Companies have looked for new opportunities in doing business outside their home country. Due to these phenomena there is growing interdependence of nations in respect of trade & commerce in addition to this new economic environment the nature of governance all over world is changing to democratic form and states are adopting the agenda of welfare state. All these socio-economic political developments have invited greater role of various international entities for regulating behaviour of socio-economic institutions and to achieve these objective many international organizations like ILO, UNO, OECD etc. have played significant role by providing suitable guidelines through various declaration/conventions from time to time. The researcher has analysed the relationship and importance of these guidelines/recommendations in global context, with international reference standards setup by the United Nations Organization for Economic Co-operation and Development (OECD) guidelines and International Labour Organization (ILO) conventions with special reference to Socially Responsible Behaviour of business entities and the researcher has also tried to analyse the role played by the government in encouraging the corporates to follow the voluntary
guidelines on the various aspects of socially responsible behaviour of corporates. The guidelines which cover some of the aspect related to CSR and which the Govt. thinks that they should be followed by the corporates and govt. encourages adoption and propagation are analysed as under;

4.15 Implementation of ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy

The ILO is the first specialized agency of the UN. It is the only “tripartite” United Nations agency, bringing together representatives of governments, employers and workers to shape policies and programmes jointly. Its declaration laid down principles forming guidelines for MNEs in respect of socially responsible behaviour.

The purpose of the Declaration is to encourage the positive contribution which MNEs can make to economic and social progress, and to minimize and resolve difficulties arising from their operations. The declaration was one of earliest international instruments covering the social dimension of business. It was negotiated between the employees, employers and workers in the year 1977. The Declaration sets out principles in the field of general policies, employment, and training, conditions of work and life and industrial relations. All government, employer and worker organizations are recommended to observe the principles on a voluntary basis.

The main areas covered by the Declaration are:

1. General policies (obey national laws and respect international standards); an aspect of legal responsibility
and aim to protect External Stakeholders.\textsuperscript{46}

2. Employment (employment promotion; equality of opportunity and treatment; security of employment); an aspect of socio-economic welfare and relates to Stakeholder approach (Both internal & external).

3. Training (policy development for vocational training, skills formation); an aspect of socio-economic welfare and relates to external stakeholder approach to CSR.

4. Conditions of Work and Life (wages, benefits, conditions of work; minimum age; safety and health); an aspect of labour welfare and relates to internal stakeholder approach of CSR

5. Industrial Relations (freedom of association and right to organize; collective bargaining; consultation; grievances; settlement of disputes). This declaration is aimed at providing negotiating platform to labour in tripartite dispute resolution mechanism which relates to protection of interest of internal stakeholder i.e. labour.\textsuperscript{47}

Now in India government has enacted many provisions related to labour welfare with the aim of implementing these guidelines.

4.16 \textbf{Encouragement and Promotion of OECD guidelines\textsuperscript{48} for Multinational Enterprises, which are voluntary in nature}

The purpose of the OECD MNE Guidelines is to offer a balanced, multilaterally-endorsed, and comprehensive Code that expresses the shared values of adhering governments. They are

\textsuperscript{46} www.ilo.org.
\textsuperscript{47} Ibid.
\textsuperscript{48} www.oecd.org.
“recommendations jointly addressed by governments to multinational enterprises” that provide “principles and standards of good practice consistent with applicable laws”. By providing a clear set of expectations, the Guidelines seek to encourage the positive contributions multinational companies can make to economic, environmental and social progress.

The Guidelines comprise a set of voluntary recommendations in all the major areas of corporate citizenship, including employment and industrial relations, human rights, environment, information disclosure, combating bribery, consumer interests, science and technology, competition, and taxation. They form part of a broader OECD investment instrument, the Declaration on International Investment and Multinational Enterprises, which is designed to promote direct investment and international economic development and growth.

Implementation of the Guidelines involves a unique combination of binding and voluntary elements. Adhering governments commit to promote them among multinational enterprises operating in or from their territories. The instrument’s distinctive implementation mechanisms include the operations of National Contact Points (NCP), which are government offices charged with advancing the Guidelines and handling enquiries in the national context. NCPs also support a unique mediation and conciliation procedure – called “specific instances” – involving claims that the Guidelines have not been respected. Since 2000, some 160 such specific instances have been considered by the NCPs. This process may be engaged whether or not a company has recognized the Guidelines.

49 www.oecd.org
The Guidelines were expressly designed to strengthen the existing international normative framework. Among other norms, they reference the Universal Declaration of Human Rights, the ILO Declaration on Fundamental Principles and Rights at Work, the Rio Declaration on Environment & Development, Agenda 21, and the Copenhagen Declaration for Social Development. The Guidelines can readily be used in conjunction with other instruments. Explanatory materials have been developed to outline their relationship with the UN Global Compact, the Principles for Responsible Investment, and with the GRI Guidelines.

These guidelines relates to all stakeholders and aim to protect the interest of various stakeholder by recommending various guidelines in respect of responsible behaviour.

The Govt. recognizes those corporate entities as responsible corporate citizens which follow these guidelines. Govt. encourages these entities by appropriately rewarding them.

4.17 Providing Assistance and Guidance to Corporates for Implementing Principles laid down by UN Global Compact

UN General Assembly, one of the Principle organs of the United Nations, with support from UN agencies, governments, and representatives of business, labour and other civil society bodies accepts new adherents on an ongoing basis from all major categories of societal actors. The UN Global Compact has been recognized on a number of occasions by the UN General Assembly, as well as by all Heads of States and Governments in

50 www.globalcompact.org.
the UN World Summit Outcome document (2005) and the G8.

The UN Global Compact has two broad goals. These are to mainstream ten core principles relating to human rights, labour standards, the environment, and anti-corruption in business activities around the world; and to catalyse actions in support of broader UN goals, such as the Millennium Development Goals (MDGs). A voluntary initiative, it is not a code of conduct. It offers “a policy framework for organizing and developing corporate sustainability strategies while offering a platform – based on universal principles to encourage innovative initiatives and partnerships with civil society, governments and other stakeholders”. The UN Global Compact invites companies to embrace, support and enact, within their sphere of influence, the following ten principles:

**Human Rights**

Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights; and

Principle 2: make sure that they are not complicit in human rights abuses.

**Labour Standards**

Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;

Principle 4: the elimination of all forms of forced and compulsory labour;

Principle 5: the effective abolition of child labour; and

Environment

Principle 7: Businesses should support a precautionary approach to environmental challenges;
Principle 8: undertake initiatives to promote greater environmental responsibility; and
Principle 9: encourage the development and diffusion of environmentally friendly technologies.

Anti-Corruption

Principle 10: Businesses should work against corruption in all its forms, including extortion and bribery\(^51\).

The Compact’s principles are derived from the Universal Declaration of Human Rights, the ILO Declaration on Fundamental Principles and Rights at Work; the Rio Declaration on Environment and Development, and the UN Convention against Corruption. The Global Compact has developed guidance materials that help users understand its relationship with the OECD MNE Guidelines, and with the GRI Guidelines. The Compact endorses but does not require the use of the GRI Guidelines in making “communications on progress”.

These principles cover all aspects of social responsibility and are aimed at ensuring protection of interest of various stakeholders.

4.18 Adoption of Principles laid down by Universal Declaration of Human Rights\(^52\)

The Universal Declaration of Human Rights states that “every individual and organ of society” has the responsibility to

---

\(^{51}\) [www.globalcompact.org](http://www.globalcompact.org).

strive “to promote respect for these rights and freedoms” and “by progressive measures, national and international, to secure their universal and effective recognition and observance”. As important “organs” of society, businesses have a responsibility to promote worldwide respect for human rights. The ILO Conventions establish norms covering all aspects of working conditions and industrial relations. Some of the most important cover core labour standards (i.e. basic human rights in the workplace). These include the right to freedom of association, the right to organize and to collective bargaining, and freedom from forced labour. ILO conventions are binding on all countries that have ratified them. Since India is signatory to this declaration, government has enacted suitable legislation and also has established mechanism for preventing human right abuse.

Corporate also need to ensure that they do not violate human rights by harming the interest of any of the stakeholder.

4.19 Government fights against corruption by motivating the corporate to follow the guidelines of UN Convention against Corruption, 2003

It ratifies countries undertook to criminalize an array of corrupt practices; develop national institutions to prevent corrupt practices and to prosecute offenders; co-operate with other governments to recover stolen assets; and help each other to fight corruption.

After analysing all the activities undertaken by the government in respect of regulating corporate behaviour for protecting stakeholder interest and synthesis of broader socio-economic goal with these activities provide a comprehensive set of guidelines which form the basis for formulating those
principles/activities which have contributed a lot in the development of concept of CSR.

4.20 Role of Judiciary in fostering CSR

Indian Constitution provides for division of powers between executive, legislature and Judiciary. There is supremacy of the constitution and custodian of constitution is Supreme Court of India. As provided in constitution the nature of Indian state is sovereign, socialist, secular and democratic republic. The preamble also provides for social and economic justice.

Responsibility of interpretation and providing exact meaning and finding the proper intention of the legislature behind any legislation is with judiciary and judiciary has played this role till now very efficiently while keeping the feelings of provisions intact. In matters related with social welfare, social justice, and environment protection. Judiciary has also expanded the scope of Article 21. “The Right to Life and Liberty” by relating it to environment, employment, dignity and has also included many provisions of Directive Principle of State policy in the ambit of definition of fundamental rights in various cases related to overall welfare of society especially of weaker sections.

Now provisioning of socialist state, social justice and economic justice are the aim envisaged in preamble, provisions of Article 21, Article 23 & 24 of fundamental rights and provision of Directive Principle of state policies relates to the aspect of corporate social responsibility and Judiciary has played very significant role in establishing this relationship and by ensuring that state make suitable legislation to make Corporates socially

The Judicial approach towards social responsibility can be ascertained by analyzing its approach in various cases related to above mentioned provisions which support the concept of corporate social responsibility directly or indirectly under following headings:

(A) Application of Jurisprudential Postulates related to social responsibility.

(B) Judicial Approach Towards constitutional provisions supporting Corporate Social Responsibility.

(C) Judicial Approach towards Tax Breaks on CSR expenses.

4.20.1 Application of Jurisprudential Postulates related to Social Responsibility

Judiciary has laid down some important principles related to social welfare/ social responsibility by using jurisprudential postulates like social solidarity and social engineering while deciding cases related to social responsibility aspect. Some of the principles so laid down have been analyzed by the researcher to ascertain whether the application by the judiciary has any link or finding of the judiciary contribute in the development of CSR or not and the analysis is as follow:

- **Egalitarian Social Order Principle**

The Principle of Egalitarian Social Order was established by S.C. in Samatha Vs. State of A.P. & Ors and in Para 73 of the Judgment the Hon’ble Court said that “Justice is an attribute of human conduct. Law, as a social engineering, is to remedy

54 AIR 1997 SC 3297.
existing imbalances, as a vehicle to establish an egalitarian social order in a Socialist Secular Bharat Republic. The Upanishad says that, "let all be happy and healthy, let all be blessed with happiness and let none be unhappy". Bhagwat Geeta preaches through Yudhishtra that, "I do not long for kingdom, heaven or rebirth, but I wish to alleviate the sufferings of the unfortunate". In this order the Apex Court has recognized the theory of social engineering propounded by Rosco Pound and explained the very purpose of law which is to remove or at least minimize the inequalities. Thus the mandate of the judgment can be applied for regulating the overall corporate behavior including CSR aspects because corporation even though are part of wider social set up in general but if we look in a narrow sense then we will find that they are part of economic set up in particular and they form the basis for establishing an Egalitarian Social Order. In this same order the Hon’ble Court has also quoted Prof. Friedlander who, in his book titled "Introduction of Social Welfare" at page 6 states that Social Welfare is the organised system of social service and institutions which are designed to aid individuals and groups to attain specified standard of life and health and personal and social relationship which permit them to develop their full capacities and to promote their well-being in harmony with the needs of their families and the community. Welfare State is a rubicon between unbridled individualism and communism. All human rights are derived from the dignity of the person and his inherent worth. Fundamental Rights and Directive Principles of the Constitution have fused in them as fundamental human rights as indivisible and interdependent. The Constitution has charged the State to provide facilities and opportunities among the people.
and groups of people to remove social and economic inequality and to improve equality of status. Article 39(b) enjoins the State to direct its policy towards securing distribution of the ownership and control of the material resources of the community as best to subserve the common good. The founding fathers with hindsight, engrafted with prognosis, not only inalienable human rights as part of the Constitution but also charged the State as its policy to remove obstacles, disabilities and inequalities for human development and positive actions to provide opportunities and facilities to develop human dignity and equality of status and of opportunity for social and economic democracy.

So here in this judgment the court recognised that the law can play a role in establishing equalities and these provisions of Constitution give mandate to regulate the corporate behavior in manner that it does not result in concentration of wealth & resources in few hands and CSR practices can contribute a lot and help the State in constructive way in achieving socio economic goal of removing inequalities and establishing an Egalitarian Social Order. Therefore it is the need of the hour to regulate all the aspects of CSR framework especially for fulfilling Constitutional mandate for that.

- **Company as Socio-Economic Institution**

  In T.S. Arumugham Vs. Lakshmi Vilas Bank Ltd.\(^{55}\) The Hon’ble Madras High Court recognised Company as Socio-Economic Institution and while explaining its importance the Court opined that the Company is an important part of society and in Para 21 of ibid Judgment the court further explained the

---

\(^{55}\) 1994 80 Comp Cas 814 Madras.
The concept of a company has undergone radical transformation in the last few decades. The traditional view of a company was that it was a convenient mechanical device for carrying on trade and industry, a mere legal framework providing a convenient institutional container for holding and using the powers of company management. The Company Law was at that time conceived merely as a statute intended to regulate the structure and mode of operation of a special type of economic institution called 'Company'. This was the view which prevailed for a long time in juristic circles all over the democratic world including the United States of America, United Kingdom and India. That was the time when the doctrine of laissez faire held sway and it dominated the political and economic scene. This doctrine glorified the concept of a free economic society in which State intervention in social and economic matters was kept at the lowest possible level. But gradually this doctrine was eroded by the emergence of new social values which recognised the role of the State as an active participant in the social and economic life of the citizen in order to bring about general welfare and common good of the community. With this change in socio-economic thinking, the developing role of companies in modern economy and their increasing impact on individuals and groups, through the ramifications of their activities, began to be increasingly recognised. It began to be realised that the company is a species of social organisation, with a life and dynamics of its own and exercising a significant power in contemporary society. The new concept of corporate responsibility transcending the limited traditional views about the relationship between management and shareholders and embracing within its scope much wider groups affected by the trading activities and other connected operations.
of companies, emerged as an important feature of contemporary thought on the role of corporation in modern society. The establishment of the socialistic pattern of society as the ultimate goal of the country's economic and social policies hastened the emergence of this new concept of the corporation. The socio-economic objectives set out in Part IV of the Constitution have since guided and shaped this new corporate philosophy. We shall presently refer to some of the Directive Principles of State Policy set out in Part IV which clearly show the direction in which the corporate sector is intended to move and the role which it is intended to play in the social and economic life of the nation. But, one thing is certain that the old nineteenth century view which regarded a company merely a legal device adopted by shareholders for carrying on trade or business as proprietors has been discarded and a company is now looked upon as a socio-economic institution wielding economic power and influencing the life of the people.”

Thus the Hon’ble Madras high court in this case has recognised the Company as an socio-economic institution and also explained that the new concept of Corporate Responsibility which is much wider than the traditional approach of relationship only between management and shareholders and this new concept of responsibility embraces within its scope all the stakeholders who get affected by the operations of companies, and this concept of responsibility is nothing but CSR. So we can conclude that CSR practices can prove helpful in achieving the socio-economic goals envisaged in the Part-IV (Directive Principle of State Policy).

In view of above jurisprudential postulates and its application by judiciary in various cases clearly recognize the need and importance of socially responsible behavior and the
need to regulate the corporate behavior with such kind of laws that it covers regulation of all the elements of CSR framework because society’s legal system, its politics and governmental regulations, consumer attitudes and public opinion, concepts of morality and ethics, and the forces of social change including science, technology and rivalry among nations can exert both positive and negative influences, upon a business firm’s cost prices and profits and thus on its attitude. So, one of the most important step in the social responsibility of an enterprise is to discharge its obligation well so that the interest of the society is safeguarded and simultaneously it is ensured that fruits of industrialization and development in India are enjoyed by the society at large. Now as we analysed that socially responsible behavior is very critical not only for the interest of the society but it is more important for existence, survival and development of business itself. Therefore in the light of importance and significance of this issue neither it can be left on the voluntary wishes of corporate nor it can be left partially regulated rather it should be comprehensively regulated. In the background of all this there is need to examine the existing Legal framework (Constitutional & legal provisions) related to regulation of CSR practices in India and to suggest a suitable legal framework for covering all aspects of CSR in case it is not in existence as of now.

4.21 Judicial Approach towards Constitutional provisions supporting Corporate Social Responsibility

This aspect can be studied by further sub-dividing the topic in to following parts:
(I) Judicial interpretation of socialist state & social justice.

(II) Judicial Approach towards provisions of fundamental Rights related to CSR.

(III) Judicial Approach in relating Directive Principles of State Policy provisions to CSR.

(IV) Judicial activism through PIL.

4.21.1 Judicial Interpretation of Socialist State & Social Justice

In DS Nakara VS Union of India\(^{56}\) S.C. held that “The principle aim of a socialist state is to eliminate inequality in income status and standard of life to the working people especially and provide security from cradle to grave.

In Excel wear Vs Union of India\(^ {57}\) the Supreme Court considered the above effect of the word socialist in the preamble. The court held that the addition of word socialist might enable the courts to lean more in favour of nationalisation and state ownership an industry. But so long as private ownership of industries is recognised and governs an overwhelming large proportion of our economic structure, this principle of socialism and social justice cannot be pushed to such an extent so as to ignore completely, or to a very large extent, the interest of another section of the public namely the private owners of the undertakings.

\(^{56}\) AIR 1983, SC 130.
\(^{57}\) AIR 1979, SC 25.
In *Sadhau Ram Vs Pulin Bihari* the S.C. held that the concept of social justice means social wellbeing or benefit to community. The social equality and prevalence of justice in social setup should be the aim of the state and other organisations including private enterprises.

### 4.21.2 Judicial Approach towards Constitutional provisions related to Fundamental Rights supporting CSR mechanism

- **Application of Art.14 for ensuring socially responsible behaviour.**

  Article 14 gives citizens of India equality before law and equal protection of law. It signifies the principles contained in the UN Declaration on Human Rights that all are equal before the law and entitled without discrimination to equal protection of law. In this context it is very important to discuss the landmark judgment of the Hon’ble Supreme court of India passed in the case of *Reliance Natural Resources Ltd. Vs. Reliance Industries Ltd.* In which it has interpreted the provisions of Article 14, 39 (b) and Article 297 in light of the Public Trust Doctrine. The Supreme Court held that this doctrine is part of Indian Law and finds application in present case as well. It is thus duty of the Government to provide complete protection to the natural resources as a trustee of the people at large. It is relevant to note that the Constitution envisages exploration, extraction and supply of gas to be within the domain of governmental functions. It is duty of the Union to make sure that these resources are used for the benefit of the citizens of this country and every citizen has equal right over the natural resources of the nation.

---

58 AIR 1984, SC 1471.
• In *Banglore water supply and sewerage board Vs A Rajappa*,\(^59\) The Supreme Court held that scope of industry have been given wide amplitude there by covering many establishment under the definition of industry, the association related with such establishment have also come under the ambit of definition of trade unions. *In Chemosyn Pvt Ltd Vs Kerala Medical and sales representatives*,\(^60\) the court held that a trade union is a body corporate and in some case court declare that it cannot be a statutory body. This right to form association or union has been provided as fundamental right under Article 19(1) (c) which provides this Right to form association or union.

• **Role of Judiciary in expanding the scope of Article 21 which provides Protection of life and Personal Liberty**

This Article provides that “No person shall be deprived of his life or personal liberty except according to procedure established by law.” In this regard the Supreme Court in India has time and again expanded the scope of right to life and liberty by resorting to very broad interpretation of words life and liberty as given in following cases:

1. **(i) In Olga Tellis Vs Bombay Municipal Corporation**

   that **Right to life includes Right to livelihood** because the right to livelihood is an important aspect of right to life because no person can live without the means of living i.e. the means of livelihood.\(^61\)

---

\(^{59}\) AIR 1978,S.C. 548  
\(^{60}\) 1988, Lab.,I.C.1258(A.P.)  
\(^{61}\) AIR 1986, SC 180.
(ii) In MC Metha Vs State of Tamil Nadu the court held that right to live under article 21 includes the Right to pollution free water and air. If anything endangers or impairs the quality of life in derogation of laws a citizen has a right to have recourse to article 32. This is one of the most important aspect which relates to the concept of corporate social responsibility because corporate/industry are the main source of air and water pollution so to continue enjoying fruits of industrialisation and liberalisation corporate will have to protect environment and this can only be done by being socially responsible.

(iii) In M. C. Mehta Vs Union of India the court held that Right to life includes protection form hazardous industries. The court held that even though setting up of chemical/hazardous industries are essential for economic development and advancement of wellbeing of the people, measures should be taken to reduce the elements of hazard or risk to community by taking all necessary steps for locating in such a manner which would pose least risk or danger to community and maximizing safety requirements in such industries. Corporate are also responsible for ensuring the implementation this constitutional obligations and this forms the part of wider concept of corporate social responsibility.

(iv) In Bandhu Mukti Morcha Vs Union of India the scope and ambit of Article 21 was widened, and it was held that everyone in this country have right to live with human dignity, free from exploitation.

---

63 AIR 1996, SC 2969.
64 AIR 1984, SC 802.
This right also includes protection of health and strength of workers, men and women and of children of tender age against abuse, opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity, educational facilities, just and human conditions of work and maternity relief. Now the corporates even though are private entrepreneur but still they are bound to follow this constitutional obligation to ensure all round welfare of labour by protecting their right to life.

After expanding the scope of right to life under Article 21 S.C has gone on to giving directions to various authorities in respect of means of protecting this right and also prioritizing the conflicting interest of revenue generation and right to healthy environment.

In a writ petition the S.C directed against the union of India/ government of Rajasthan and RPCB to compel them to perform their statutory duties enjoined by the water (prevention and control of pollution) Act 1974, the Air (prevention and control of pollution) Act 1981 and the Environment (protection) Act 1986 on the ground that their failure to carryout their statutory duties is seriously undermining the right to life of the residence of Bichhari and affected area. If the S.C finds that the authorities have not taken the action required of them by law and that their inaction is jeopardizing the right to life of the citizen of this country or any section there of, it is the duty of the court to intervene. If an industry is established without taking the requisite permissions and clearances and if the industry is continued to be run in blatant disregard of law to the detriment of life and liberty of citizens living in the vicinity, then this court
has power to intervene and protect the fundamental right to life and liberty of citizen of India.

The rule laid down by *S.C in Indian council for Enviro-Legal Action Vs Union of India and Oleum Gas leak*\(^{65}\) case for absolute liability for carrying on hazardous and inherently dangerous activities is binding.

**Ban on mining for protecting right of people to live in a healthy atmosphere.** While carry forwarding the scope of Article 21 for protection of life the *S.C in Rural Litigation and Entitlement Kendra, Dehradun Vs State of U.P.*\(^{66}\) directed to permanently close the limestone quarries in hilly areas near Dehradun. S.C held that even though many investors who have invested large sums of money and expended considerable time and effort may suffer but it is a price that has to be paid for protecting and safeguarding the right of the people with nominal disturbance of ecological balance and without avoidable hazard to them and to their cattle, homes and agricultural lands and undue affection of air, water and environment.

**Compulsory exposure of unwilling persons to dangerous and hazardous noise is violative of Article 21.** In *MR Pillai Vs Executive office*\(^{67}\), *S.C* held that compulsory exposure of unwilling persons to dangerous and disastrous levels of noise, would amount to a clear infringement of their constitutional guarantee of right to life under Article 21 of the constitution. Right to life, comprises right to safe environment including safe

\(^{65}\) AIR 1996, SC 5.
\(^{66}\) AIR 1985 SC 652, 656.
\(^{67}\) AIR 1997 KER 162, 163.
air quality, safe from noise.

(v) Sexual harassment of women at workplace amounts to violation of go rights of gender equality and right to life and liberty. In Vishaka Vs State of Rajasthan\(^68\), the court held that the fundamental right to carry out any occupation, trade or profession depends upon the availability of safe working environment. The right to life means life with dignity. Few of the salient points of guidelines laid down by S.C. in this case are as follows:

(a) It shall be the duty of the employer of other responsible person in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedure for the resolutions, settlements or prosecution of acts of sexual harassments by taking all steps required.

(b) Duty of the employer to setup complaint and disciplinary action mechanism, and to spread awareness among employees by prominently notifying the guidelines issued by the S.C or under suitable legislations.

(vi) Judicial Approach in Protecting labour from exploitation

In *M.C. Metha Vs State of Tamilnadu*\(^69\) known as child labour abolition case, a three judge bench of S.C held that children below the age of 14 years cannot be employed in any hazardous industry, or mines or other work. When the lawyer Shri MC Metha presented the plight of children engaged in Siva Kasi Cracker Factories and explained that how the constitutional rights of these children guaranteed by Article 24 was being grossly

\(^{68}\) AIR 1997 SC 3011.
\(^{69}\) AIR 1997 SC 699.
violated, the court issued number of directions for the
government for ensuring the protections of rights of children’s.

4.21.3 Judicial Approach in relating Directive Principles of
State Policy provisions to CSR

(a) In *Air India Statutory Corporation Vs United labour
Union*⁷⁰ the court explained the concept of social justice as
provided in Article 38. And provided that social justice a
dynamic devise to mitigate the sufferings of poor, weak,
dalits, tribals and deprived sections of the society and to
eliminate them all to the level of equality to live a life with
dignity of person.

(b) In *Tamilnadu Vs A bu Kavar Bai*⁷¹ In this case court held
that it is the responsibility of the corporate to have such
kind of behavior so as to full fill the obligations of article
39 (b) & (c) otherwise state for the purpose of distribution
or preventing concentration of wealth can resort to
acquisition/ take over by way of nationalization.

(c) In *Randhir Singh Vs Union of India*⁷² the S.C has held that
the principle of equal pay for equal work provided under
Article 39 (d) is not a fundamental right but is certainly a
constitutional goal and therefore capable of enforcement
through constitutional remedies under Article 32.In
pursuant to article 39 (d) the parliament has enacted the
Equal Remuneration Act 1976. It applies to persons
employed on daily wage basis.

⁷⁰ AIR 1997 SC 645
⁷¹ AIR 1984 SC 516
⁷² AIR 1997 SC 449
(d) **Article 51-A (g).** Imposes fundamental duties on citizens of India which includes protection and improvement of the natural environment including forest, lakes, rivers and wildlife and to have compassion for living creatures. Supreme Court in many cases has related environment protection with right to life.'

The Judiciary in India has been very active in protecting the fundamental rights of citizens and also in interpreting and expanding the scope of Directive Principle of State Policy (DPSP). Fundamental Rights and Directive Principles of State Policy both aim at principle of 'welfare state'. While summarizing the combined role of these two in *Bandhua Mukti Mrocha Vs Union of India*,73 the S.C held that it is fundamental right of everyone in India to live with dignity and free from exploitation. These rights under article 21, 23 and 24 derive its life breath from the Directive Principles of State Policy and particularly clauses (e) and (f) of article 39 and articles 41 and 42 and at the last, therefore, it must include protection of the health and dignity of workers, men and women and of the children against abuse, opportunities and facilities for children to develop a healthy manner.

Now since the activities of corporate also influence these rights of society at large, it is the responsibility of these corporate to behave responsibly and ensure protection of these rights of citizens of India and avoid excessive control and legislation.

---

73 AIR 1984 SC 802.
4.21.4 Role of Judicial Activism in ensuring responsible behavior by way of PIL

Before analyzing the role of Judicial Activism in supporting CSR we must read this statement of Napoleon;

“There is only one thing in this world, and that is to keep acquiring money and more money, power and more power. All the rest is meaningless”.

Now we can understand where the geneses of irresponsible behavior are. In India judiciary is entrusted with the responsibility to protect the legitimate rights of people by checking this irresponsible behavior either with the help of existing provisions or by resorting to Judicial Activism by expanding the scope of existing provisions.

Judicial Activism is a dynamic process of Judicial outlook in a changing society. According to Black’s Law Dictionary- *Judicial activism is a judicial philosophy which motivates judges to depart from the traditional precedents in favour of progressive and new social policies.*

In recent years, law making has assured new dimensions through Judicial Activism of law courts. The Judiciary has resorted to this trend to interpret law in the interest of society at large.

Role of Judicial Activism in ensuring responsible behavior by way of PIL can be assessed by analyzing following factors:

1. Relaxation in strict rule of Locus Standi
2. Environment Protection Through Judicial Activism
4.21.4.1 Relaxation in Strict Rule of Locus Standi

The S.C. in *Mumbai Kamgar Sabha Vs Abdul Bhai*\(^{74}\) entertained PIL and relaxed the rule of Locus Standi. In this case, the S.C. held that public interest is promoted by a spacious construction of Locus Standi in our socio economic circumstances and conceptual latitudinarianism permits taking liberties with individualization of the right to invoke the higher court where the remedy is shared by considerable number, particularly when they are weaker. Less litigation, consistent with fair process, is the aim of adjective law. Here the S.C. has made it clear that even the procedures can be relaxed for ensuring welfare of poor or also for the protection of fundamental rights of poor/weaker section. S.C. has gone far ahead in entertaining PIL on various issues related to fundamental rights. The rights of labour in respect of protection against exploitation, right to living wages, right to maternity benefits, right to reasonable and comfortable working conditions has found favour from S.C. through PIL. The court has recognized all these rights as part of Article 21 i.e. right to life and liberty. In such matters also the strict rule of locus standi was relaxed. S.C. enhanced the scope of Article 21 by including right to clean environment as right to life and activities endangering environment have been held violative of Article 21. While entertaining PIL on environmental matters court has always favoured interest of wider population in place of narrow rule of Locus Standi.

Now the need for intervention of S.C. in these cases of labour welfare and environmental protection arose because the

\(^{74}\) AIR 1976 S.C. 1455
establishments responsible for taking care of these aspects failed to do so. Now corporations employ large number of labour and pollute the environment and it is their legal responsibility to ensure environment protection and labour welfare and this is how the concept of Corporate Social Responsibility comes in to play.

4.21.4.2 Environment Protection through Judicial Activism

The problem of pollution is increasing with industrialization and is more acute in those heavily industrialized areas which are also densely populated. The pollution has gone on to such an extent that it is threatening the ecology of the area itself. S.C. while entertaining PIL has been very active in issuing appropriate orders and enumerating various principles which are to be followed for environment protection. The Supreme Court has time and again extended the scope of Article 21 by including the matters related to environment protection in to it. In Indian council for Enviro-legal Action v. Union of India\textsuperscript{75}, and M.C. Mehta Vs. Union of India 1997 followed “polluter pays principle” which means that the absolute liability for harm to the environment extends not only to compensate the victims of the pollution but also the cost of restoring the environment degradation. Remediation of the damaged environment is the part of the process of sustainable development and as such polluter liable to pay the cost to individual sufferer as well as the cost of reversing the damage ecology.

In Vellore citizen welfare forum v. Union of India\textsuperscript{76} S.C. defined the precautionary Principle and held that these Principles are essential features of sustainable development. The

\textsuperscript{75} AIR 1996 SC 1446.
\textsuperscript{76} AIR 1996 SC 2715.
precautionary Principle in the context of municipal law means:-

(i) Environmental measures, by the state government and the statutory authorities, must anticipate, prevent and attack the causes of environmental degradation. Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

(ii) The onus of proof is on the actor or developer/ industrialist to show that his action is environmentally sustainable.

In Rural Litigation and Entitlement Kendra v. State of UP\textsuperscript{77}. The court observed that scientific developments made it possible and convenient for man to approach the places which were hitherto beyond his ken. The consequences of such interference with ecology and environment have not come to be realized, It is necessary that the Himalayas and the forest growth on the mountain range should be left uninterferred with so that there may be sufficient quantity of rain. In Rural Litigation and Entitlement Kendra v. State of UP AIR 1985 SC 652. The Supreme Court went on to permanently close the lime stone quarries for protecting healthy environment and ecological balance.

In MC Mehta v. Union of India,\textsuperscript{78} it was held that where a law of the past does not fit in the present context the court should evolve a new law for handling needs of changing society. In another case of M.C .Mehta v. Union of India,\textsuperscript{79} the court held that to achieve the goal of free an unpolluted environment, this

\textsuperscript{77} \footnote{AIR 1987 SC 359.}
\textsuperscript{78} \footnote{AIR 1987 SC 1086.}
\textsuperscript{79} \footnote{AIR 1988 SC 1037.}
environmental goal would demand the acceptance of responsibility by citizens and communities and by enterprises and institutions at every level, all sharing equitability in common efforts.

Supreme Court has given priority to environment even over employment to which they have recognized as right to life. In *M.C. Mehta Vs Union of India*, the court held that, “Life, public health and ecology have priority over unemployment and loss of revenue problem.” *In M.C. Mehta Vs Union of India*, which is a landmark case popularly known as Sriram Mills case of oleum gas leakage from the fertilizer and chemical factory run by a private enterprise, that a creative and innovative interpretation in consonance with Indian constitutional jurisprudence is commended.

The court observed that “However, the principle behind the doctrine of state aid, control, and regulation so impregnating a private activity as to give it the colour of state action can be applied to the limited extent to which it can be Indianite and harmoniously blended with Indian constitutional jurisprudence.” Here also the court has tried to keep private entities some what independent in their operation but simultaneously has also recommended a set up to check whether the company is following norms or not and also made clear that to fulfill the constitutional goal any entity can be brought within the ambit of definition of state.

So we can see that even though day to day functioning of

---

80 AIR 1988 SC 1037.
81 AIR 1987 SC 1086.
any private entity should not be brought under the provisions of constitution but court can intervene in case of requirement therefore to avoid interference the corporations should be responsible towards environment protection and following latest and safe technology and overall responsible behavior.

4.21.5 Judicial Approach on Tax Breaks on CSR Expenses

Taxes serve several functions in addition to financing government expenditure. Governments everywhere, including in India, use taxation measures to encourage or discourage the utilisation of resources for a particular sector, area or class of citizens. In case of indirect taxes like excise/service tax/sales tax, this is achieved through a reduced or nil rate of taxation on goods or services produced or provided by a targeted entrepreneur to a targeted sector, area or class of citizens. Here, the intentions and mode of implementation of taxation are clear and do not call for proving anything other than that it should fall within the ambit of the relevant notification or circular. Things are not easy when it comes to direct taxes, particularly income tax. The rate of corporate tax is high and therefore, in order to secure a deduction from the taxable income of the expense incurred on CSR activities, it is necessary to not only select projects with care but also to develop the documentation accordingly.

The Supreme Court of India has consistently taken the view that the reasonableness or necessity of any expenditure is to be considered from the point of view of a prudent, normal businessman. This has to be judged not in terms of any subjective standard of the assessing authority but from the point of view of commercial expediency.

A shift in the approach of the courts is seen in a relatively
recent and famous decision of the Madras High Court in the case of the Commissioner of Income Tax vs. Madras Refineries Limited. Madras Refineries, a public limited company, fulfilling its role of a good corporate citizen and aiming to gain the goodwill of the people living in and around its facility, which was to some extent a polluting industry, provided funds for establishing drinking water facilities for the residents in the vicinity of the refinery and also provided aid to the school run for the benefit of the children of the local residents. It incurred an expenditure of Rs.15.32 lakh for that purpose. The Assessing Officer, however, declined to allow that expenditure on the ground that it was not an item of expenditure incurred by the assessee for earning the income. The issue ultimately reached the High Court, which allowed the deduction on the ground that the amount spent for bringing drinking water as also for establishing or improving the school meant for the residents of the locality in which the business was situated could not be regarded as being wholly outside the ambit of the business concerns of the assessee, especially since the undertaking owned by the assessee was, to some extent, a polluting industry. The following remarks of the court while deciding the case are important and shows the current line of judicial thinking:

The concept of business is not static. It has evolved over a period of time to include within its fold the concrete expression of care and concern for the society at large and the people of the locality in which the business is located, in particular. Here in this case the Apex court recognized the importance of welfare activities undertaken by the company

---

82 266 ITR 170, Madras High Court (2004).
Being known as a good corporate citizen brings goodwill of the local community, as also with the regulatory agencies and the society at large, thereby creating an atmosphere in which the business can succeed in the greater measure with the aid of such goodwill. While dealing with the case of allowability of deduction under Section 36(1) (ii) of the Indian Income Tax Act, the Apex Court in Shahzada Nand and Sons vs. CIT\textsuperscript{83} held that:

What is the requirement of commercial expediency must be judged, not in the light of the nineteenth century laissez faire doctrine which regarded man as an economic being concerned only to protect and advance his self-interest, but in the context of current socio-economic thinking which places the general interest of the community above the personal interest of the individual and believes that a business or undertaking is the product of the combined efforts of the employer and the employees and where there is sufficiently large profit, after providing for the salary or remuneration of the employer and the employees and other prior charges such as interest on capital, depreciation, reserves, etc., a part of it should in all fairness go to the employees.

Again, in the celebrated case of Sasoon J. David and Co.Pvt. Ltd. vs. Commissioner of Income Tax, Bombay,\textsuperscript{84} the Apex Court held that:

Ordinarily, it is for the assessee to decide whether any expenditure should be incurred in the course of his or its business. Such expenditure may be incurred voluntarily and without any necessity and if it is incurred for promoting the business and to earn profits, the assessee can claim deduction

\textsuperscript{83} 108 ITR 358 SC (1977).
\textsuperscript{84} 118 ITR 261 SC (1979).
under Section 10(2) (xv) of the Act even though there was no compelling necessity to incur such expenditure. The fact that somebody other than the assessee is also benefited by the expenditure should not come in the way of an expenditure being allowed by way of deduction under Section 10(2) (xv) of the Act if it satisfies otherwise the tests laid down by law.

Slowly, but not surely, the government is recognising the role of business in social responsibility. As per newspaper reports, there is a proposal to refund the customs and excise duty on all medicines donated by pharmaceuticals companies in times of a national emergency.

In Sri Venkata Satyanarayana Rice Mill Contractors Co. vs. CIT The Apex Court held that any contribution made by an assessee to a public welfare fund, which is directly connected or related to the carrying out of the assessee’s business or which results in benefit to the assessee's business has to be regarded as an allowable deduction under Section 37(1) of the Income Tax Act, 1961.

Thus we see that court by its ruling has encouraged the expenditure by the company towards social welfare.

The Supreme Court in CIT vs. Bombay Dyeing and Manufacturing Company Limited held that the amount contributed to the State Housing Board for constructing tenements for the workers of the assessee was for carrying on the business of the assessee-company more effectively by having a contented labour force and was in the form of revenue expenditure. There, the assessee contributed an amount of Rs

2.25 lakh to the Maharashtra Housing Board towards construction of tenements for the workers of the company. Here, the Supreme Court held that, on the facts of the case, the amount constituted revenue expenditure and thus it was an allowable expenditure.

Although the courts have increasingly started accepting the business case of the social obligation of corporate houses, this acceptance is still at the evolutionary stage. What is clear is that the issue gets the favour of the judiciary when it has a direct link with business activities and business locations. The role of tax breaks in CSR initiatives cannot be ignored. Governments in every country, even in the most developed countries like the US, resort to tax incentives in the time of crises or natural calamities to seek donations from the public. After Hurricane Katrina, the US Congress was so concerned that donations for hurricane relief efforts would cut into other charitable donations that it passed one of the biggest temporary tax breaks in the history. A recent survey in the US by the Association of Fundraising Professionals has also confirmed the view that tax rebates prompt more donations.

There can perhaps be no dispute that engaging in CSR is not a choice for corporate houses but a necessity for them to remain in business. The bigger the business, the greater are its responsibilities. As long as the company’s budgets are limited, the business manager must identify those CSR activities, which are relevant to the company’s line of business and have a direct association with its business concerns. This helps the organisation in not only extracting the maximum business benefits out of such activities, but also in obtaining a tax break on the same.
Thus after analyzing the role of judiciary in fostering CSR we find that the judiciary has always taken the side of societal interest in the conflict of society and industry. By laying down various principles through judicial pronouncement & liberal interpretation of constitutional provisions, the judiciary has expanded the scope of various fundamental rights. By doing this it has contributed a lot in expanding and redefining the sphere of socially responsible behaviour. Judicial approach towards environment protection and associating it with right to life thus bringing it under the ambit of Art.21 is the most revolutionary contribution towards development of concept of CSR. The recognition of Public Trust Doctrine for ownership of natural resources and its use in the interest of society at large is another significant contribution of the judiciary in development of concept of CSR. Judicial approach towards Tax Breaks on expenditure on social welfare activities also reflect that Judiciary recognizes and encourages contributions by corporate towards welfare activities thereby provides guidance as to what can be termed as social welfare activities Thus researcher concludes that if, we, consider all the judicial pronouncement about social welfare in totality, we will find a very comprehensive set of guidelines for corporate which to be followed by them to become socially responsible. Therefore, many proposal of the Company Bill, 2012 in respect of CSR find their bases or genesis in judicial pronouncements. Therefore, researcher concludes that the contribution of judiciary is very significant in formulating & developing the concept of CSR in India.