

Expense on R&D for Covid drugs, vax, devices will count as CSR

RUCHIKA CHITRANAGHI
New Delhi, 26 August

Research and development of new vaccines, drugs and medical devices related to Covid-19 by companies in the normal course of business will be regarded as corporate social responsibility (CSR) for three financial years, till FY22-23, the ministry of corporate affairs (MCA) said through a document.

While activities in the normal course of business do not qualify as CSR, the exception regarding R&D for Covid drugs and vaccines is only for companies that collaborate with organisations mentioned in the item (b) of Schedule VII in the Companies Act.

These organisations include the Indian Institute of Technology, National Laboratories and autonomous bodies established under the Department of Atomic Energy, Indian Council of Medical Research and Council of Scientific and Industrial Research, among others.

"The FAQs on CSR issued by MCA provide important clarifications related to various implementation questions for corporate India. This is a welcome step and will provide impetus to corporate India's fight against the pandemic," said Anand Subramanian, partner, Deloitte India.

MCA has also clarified that preference to local areas under CSR is only directory and not mandatory in nature. The government has said that some activities in Schedule VII such as welfare activities for war widows, art and culture, and other similar activities, transcend geographical boundaries and are applicable across the country.

"The spirit of the Act is to ensure that CSR initiatives are aligned with the national priorities and enhance engagement of the corporate sector towards achieving Sustainable Development Goals," MCA said.

"The government understands

that with new-age businesses, geographical boundaries are dissolving and has acknowledged corporate entities as partners in the social development process," said Suraj Nangla, partner-Nangla Andersen. "The explanations offered will help comprehend the CSR law properly, thereby facilitating effective execution."

The government notified the new rules in January 2021 underlining the big theme that CSR is mandatory and a statutory obligation, making India the first country to do so.

Thereafter several new aspects were added such as impact assessment of CSR contribution, involvement of international organisations for the purposes of CSR projects, drafting of a CSR policy, meaning of CSR, its implementation and limiting the discretion with the companies.

"These new aspects created several confusion and needed clarity. Though the FAQs provide clarity, the provision of 5 per cent limit on

administrative overheads might be difficult for the companies to follow," said Neeraj Dubey, partner, Singh & Associates.

The CSR FAQs provide details of what would qualify as administrative overheads. These include expenses incurred in the management and administration of CSR functions in the company. Expenses incurred by implementing agencies on the management of CSR activities shall not amount to administrative overheads and cannot be claimed by the company.

For instance, salary and training of employees working in the CSR division of a company, stationary cost and travel expenses may be categorised as administrative overheads. However, the salary of school teachers or other staff for education-related CSR projects will be covered under education project cost.

The CSR rules state that if a company spends more than the required amount on CSR, the excess amount can be set off against the mandatory



FESTIVE SEASON AHEAD, GOVT CALLS FOR CAUTION

RUCHIKA CHITRANAGHI
New Delhi 26 August

The health ministry on Thursday said that the second Covid-19 wave isn't yet over for India and cautioned people to take precautions ahead of the upcoming festive season. "After every festival, we see a spike in cases. We have to follow Covid-appropriate behaviour as the second surge is not over yet," Health Secretary Rajesh

Bhushan said.

The weekly positive rate has been less than 3 per cent for the eighth consecutive week. However, 41 districts have been reporting more than 100 cases daily in the last week. The health ministry has asked states to speed up vaccinations. "There is no shortage of vaccines with the states. In the last three weeks, the balance doses with states have not been less than 25 million," Bhushan said.

Covid casefile

State	Word-hit	Active cases	Contribution	Average doses given (in mn)
1 Kerala		170,829	51.19%	May 1,969
2 Maharashtra		53,695	16.07%	June 3,989
3 Karnataka		19,344	5.8%	July 6,341
4 Tamil Nadu		18,352	5.5%	August 5,216
5 Andhra Pradesh		14,061	4.27%	

41 districts are reporting more than 10% weekly positivity	Doses administered		
		1st dose	2nd dose
	Health workers	99%	83%
Frontline workers	100%	79%	
Above 18	50%	75%	

Source: Health ministry

CSR expenditure in the succeeding three years with effect from January 2021. However, no carry forward will be allowed for excess amount spent prior to FY20-21. "The freedom to carry forward for three years will give the corporations the freedom to spend liberally on social development activities," Nangla said.

globally, those countries have

taken a voluntary approach to CSR spending. Countries such as Norway and Sweden, which have voluntary CSR, had started with a mandatory provision. Some experts believe that India needs to go through a compulsory CSR regime to become more accustomed to the idea before the rules are eased.

"50% of the eligible population inoculated with the first dose of COVID-19 vaccine," Union Health Minister Mansukh Mandaviya tweeted on Thursday

Firms now have a master circular to navigate legal framework

Handy for India Inc that has spent over ₹1-lakh crore on CSR in last 7 yrs

KR SRIVATS

New Delhi, August 26

The Corporate Affairs Ministry (MCA) has come out with a new set of comprehensive Frequently Asked Questions (FAQs) updating the regulatory developments on this front so as to make the interpretation of the legal framework easier for stakeholders.

The latest FAQs have mainly clarified various issues around CSR at one place while withdrawing four earlier set of FAQs and clarifications that were issued from time to time.

It, in a way, takes the form of a Master circular that other regulators like RBI issue on

various matters under their regulatory oversight.

This latest MCA move will come in handy for Corporate India which has in the last seven years spent over ₹1-lakh crore towards CSR. Of this nearly 40 per cent of the spends has happened in the fiscal years 2019-20 and 2020-21, according to a recent CRISIL Foundation analysis, which showed that pandemic related efforts dominated spending in the last fiscal.

Commenting on the latest MCA move, Anand Subramanian, Partner, Deloitte India said that the FAQs on CSR issued by MCA provide important clarifications related to various implementation questions for corporate India.

R&D spend on Covid

"The clarifications related to eligibility of expenditure in-

cluded on R&D activities up to fiscal 2022-23 by companies in the normal course of business for vaccines, drugs, and medical devices related to Covid-19 in collaboration with organisations specified under Item (ix) of Schedule VII is a welcome step and will provide impetus to corporate India's fight against the pandemic".

Dinesh Anand, National Managing Partner, Risk and ESG at Grant Thornton Bharat said that one of the important areas in which the Ministry has issued a clarification is that the objective of CSR is to involve Corporates in social development through innovations and not to fill the resource gap in Government schemes.

"Further it has now been clarified that CSR spend is to be reported only after utilisation by the implementing agency/NGO. Other note-

worthy clarifications include disallowing corpus contributions, no in-kind CSR contribution, detailing of penal provisions for non-compliance and clear definition for ongoing projects", he said.



'High importance areas'

Suraj Nangla, Partner, Govt. and Public sector Advisory, Nangla Andersen, said "Providing that contribution to Swachh Bharat Kosh, Clean Ganga Fund and other government funds shall qualify for CSR expenditure, effective channelisation to high im-

portance areas has been ensured."

Ruby Singh Ahuja, Senior Partner, Karanjawala & Co said that MCA has once again emphasised that CSR will always remain a Board driven process and it is the Board of a company that will decide the CSR policy. The government shall have no direct role in the approval and implementation of CSR programmes, she added.

Vaibhav Kakkar, Partner-Saraf & Partners, said that the revisions have been made to capture the current legal position on account of regulatory changes.

Aseem Chawla, Managing Partner, ASC Legal said the enabling legislation should rather incentivise good and constructive contribution to society. It is high time to make CSR as voluntary rather than mandatory, Chawla added.