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No. 15(13)/2013-DPE (GM)
Government of India
Ministry of Heavy Industries & Public Enterprises
(Department of Public Enterprises)

Public Enterprises Bhawan
Block No. 14, C.G.O. Complex
Lodhi Road, New Delhi- 110 003
Dated the 8th July, 2014

Office Memorandum

Subject: Placing of Draft DPE Guidelines on Corporate Social Responsibility and Sustainability for CPSEs consistent with the provisions of the Companies Act 2013 and CSR Rules notified by M/o Corporate Affairs on DPE's website for comments.

The undersigned is directed to place on DPE's website the Draft DPE Guidelines on Corporate Social Responsibility and Sustainability consistent with the provisions of the Companies Act 2013 and CSR Rules notified by M/o Corporate Affairs for compliance by the CPSEs.

All stakeholders are requested to offer their comments / suggestions, if any, latest by 25th July, 2014.

Sd/-

(Umesh Dongre)
Director

To

The Director, NIC, DPE for placing on DPE website.

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Guidelines
on
Corporate Social Responsibility
And
Sustainability
For
Central Public Sector Enterprises

w.e.f. 01.04.2014

Department of Public Enterprises

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1.0. Background

1.1. The Government of India enacted the Companies Act 2013 in August 2013. Section 135 of the Companies Act 2013 (hereinafter referred to as 'the Act') deals with the subject of Corporate Social Responsibility (CSR). It lays down the qualifying criteria based on net worth, turnover, and net profit for companies which are required to undertake CSR activities and, interalia, specifies the broad modalities of selection, implementation and monitoring of the CSR activities by the Boards of Directors of companies. The activities which may be included by companies in their CSR policies are listed in Schedule VII of the Act. The provisions of Section 135 of the Act and Schedule VII of the Act apply to all companies including CPSEs.

1.2. The Ministry of Corporate Affairs has formulated CSR Rules (hereinafter referred to as the 'CSR Rules'), under the provisions of the Act and notified the same on 27.2.2014. The CSR Rules become applicable to all companies including CPSEs w.e.f. 1.4.2014.

1.3 The CSR Rules and Schedule VII of the Act may be amended as and when required by the Ministry of Corporate Affairs. CPSEs are advised to keep themselves updated with any amendment in the Act, its Schedule VII, and the CSR Rules, or any clarification issued by the Ministry of Corporate Affairs in this regard,

1.4 All CPSEs shall have to comply with the provisions of the Act and the CSR Rules. Any amendment notified by the Ministry of Corporate Affairs in the CSR Rules, or in Schedule VII of the Act will be binding on the CPSEs.

2.0. DPE Guidelines on CSR and Sustainability for CPSEs

2.1. The CSR provisions of the Act, Schedule VII of the Act, and the CSR Rules are inviolable. However, in addition to the CSR provisions of the Act and the CSR Rules, the Department of Public Enterprises (DPE) has formulated Guidelines on CSR and Sustainability (hereinafter referred to as 'the Guidelines') which are applicable to CPSEs. It is clarified that the Guidelines do not supersede or override any provision of the Act, or Schedule VII of the Act, or the CSR Rules, but are in the nature of extra initiative or endeavour which the key stakeholders expect of CPSEs in the discharge of their Corporate Social Responsibility. Any possible situation in which there may be a conflict between the CSR Rules and the Guidelines, is not envisaged. However, it is clarified that in case of any perceived conflict between the CSR Rules and the Guidelines, the former shall prevail in all circumstances.

2.2 The CSR Rules are not mentioned here to avoid un-necessary repetition. It suffices to reiterate that the CSR Rules as notified and amended by the Ministry of Corporate Affairs from time to time have to be complied with in letter and spirit.

2.3 The following Guidelines applicable to all CPSEs contain some CSR features which are mandatory for CPSEs, and some features which are in the nature of guiding principles, which the CPSEs would do well to adhere to. In addition to the provisions of the Act and the CSR Rules, CPSEs will have to conform to certain additional requirements as mentioned in the Guidelines given below:

i) It is mandatory for all profit making CPSEs to undertake CSR activities as per the provisions of the Act, the CSR Rules, and the Guidelines. Even the CPSEs which are not covered under the eligibility criteria based on threshold limits of net-worth, turnover, or net profit as specified by Section 135 (1) of the Act, but which make profit in any particular year, would also be required to take up CSR activities within the provisions of the Act, the CSR Rules, and the Guidelines. Such CPSEs would be expected to spend at least 2% of the profit made in the previous year (i.e. the year in which profit is registered by the CPSE) on CSR activities.

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ii) For CPSEs it would be mandatory to spend at least 2% of the overall net profits of the three immediately preceding financial years in pursuance of their CSR policy as stipulated in the Act and the CSR Rules. This stipulated percentage of net profit is to be spent every year in a manner specified in the Act and CSR Rules, and mere reporting and explaining the reasons for not spending this amount in a particular year would not suffice.

iii) All CPSEs must adopt a CSR and Sustainability Policy specific to their company with the approval of the Board of Directors. The philosophy and spirit of CSR must be firmly ingrained in the policy and it must be consistent with the CSR provisions of the Act, Schedule VII of the Act, CSR Rules, the Guidelines, and the policy directions issued by the Government from time to time. The CSR policy of a CPSE should serve as the referral document for planning its CSR activities in accordance with Schedule VII of the Act and give a road map for formulation of actionable plans.

iv) CSR activities / projects which are selected from the activities listed in Schedule VII of the Act, may not be enumerated in the CSR policy document of the CPSE to obviate the necessity of amending the CSR policy every time a new CSR activity / project is undertaken by the CPSE. However, every CSR activity / project should have the approval of the Board.

v) Although the Act and the CSR Rules are silent on the aspect of carry forward of the unspent CSR amount allocated in a particular year, CPSEs would be permitted, in exceptional circumstances, to carry forward the unspent CSR amount to the next year, provided the reasons for not utilizing the entire CSR amount allocated in a particular year, and the plan(s) for utilizing the unspent CSR amount in the next year is approved by the Board of the CPSE and disclosed in its Annual Report. This would ensure that the entire CSR amount allocated in a particular year does not lapse; rather, it gets fully utilized for the purpose for which it was allocated, sooner or later.

vi) While selecting CSR activities / projects from the activities listed in Schedule VII of the Act, CPSEs should give priority to the issues which are of foremost concern in the national development agenda, like safe drinking water for all, provision of toilets especially for girls, health and sanitation, education etc. The main

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focus of CSR policy of CPSEs should be to address the basic needs of the deprived, under privileged, neglected and weaker sections of the society which comprise of SC, ST, OBCs, minorities, BPL families, old and aged, women / girl child, physically challenged etc.

vii) For CPSEs to fully exploit their core competence and mobilize their resource capabilities in the implementation of CSR activities / projects, they are advised to align their CSR policy with their business policies and strategies, and select such CSR activities / projects which can be better implemented/ monitored through in-house expertise.

viii) All CPSEs are expected to act in a socially, economically and environmentally sustainable manner at all times. Even in their normal business activities, public sector companies should try to promote sustainable development by conducting business in a manner that is beneficial to both, business and society. They are advised not to lose sight of their social and environmental responsibility and commitment to sustainable development even in activities undertaken in pursuance of their normal course of business. But the amount spent in the pursuit of sustainable development while conducting normal business activities would not constitute a part of the CSR spend from 2% of profits as stipulated in the Act and the CSR Rules.

ix) CPSEs should extend their reach and oversight to the entire supply chain network to ensure that as far as possible suppliers, vendors, service providers, clients, and partners are also committed to the same principles and standards of corporate social responsibility and sustainability as the company itself. CPSEs are encouraged to initiate and implement measures aimed at 'greening' the supply chain.

x) In their normal mainstream activities also, CPSEs should give importance to environmental sustainability by ensuring that their internal operations and processes promote renewable sources of energy, reduce / re-use / recycle waste material, replenish ground water supply, protect / conserve / restore the ecosystem, reduce carbon emissions and help in greening the supply chain. CPSEs are expected to behave in a responsible manner by producing goods and services which are safe and healthy for the consumers and the environment, resource

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efficient, consumer friendly, and environmentally sustainable throughout their life cycles. However, the expenditure incurred in such initiatives will not be counted as CSR activities as specified in the CSR Rules, and the expenditure incurred in taking up such initiatives would also not constitute a part of the CSR spend. Nevertheless, CPSEs are encouraged to take up such initiatives from their normal budgetary expenditure as it would demonstrate their commitment to sustainable development.

xi) The philosophy and spirit of CSR and Sustainability should be understood and imbibed by the employees at all levels and get embedded in the core values of the company.

xii) As mentioned in the Act, CPSEs should give preference to the 'local area' in selecting the location of their CSR activities. The Board of Directors of CPSEs should define the scope of the 'local area' of their commercial units / plants / projects, keeping in view the nature of their commercial operations, the extent of the impact of their operations on society and environment, and the suggestions / demands of the key stakeholders, especially those who are directly impacted by the company's commercial operations / activities. The definition of 'local area' should form part of the CSR policy of the CPSE.

xiii) After giving due preference to the local area, CPSEs may also undertake CSR activities anywhere in the country. The Board of Directors of each CPSE may also decide on an indicative ratio of CSR spend between the local area and outside it, and this may be mentioned in the CSR policy of the CPSE.

xiv) CSR Rules prohibit taking up of CSR activities / projects / programmes that benefit the employees of the company. It is mandatory for CPSEs to ensure that all activities / projects / programmes taken up under CSR are essentially meant for the benefit of society or environment, and CPSE employees and members of their families who avail any infrastructure / facility created under CSR do not constitute more than 50% of the beneficiaries.

xv) As far as possible, CPSEs should take up the CSR activities in project mode and ensure that at least 75% of the CSR spend is through project mode, which entails planning the stages of execution in advance by fixing targets at different

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milestones, with pre-estimation of quantum of resources required within the allocated budget.

xvi) CPSEs should devise a communication strategy for regular dialogue and consultation with key stakeholders to ascertain their views and suggestions regarding the CSR activities undertaken by the company. However, the ultimate decision in the selection and implementation of CSR activities would be that of the Board of the CPSE.

xvii) It is desirable that CPSEs get a baseline/ need assessment survey done prior to the selection of any CSR activity. It is also desirable that CPSEs should get an impact assessment study done by external agencies of the CSR activities / projects undertaken by them. Impact assessment studies should be mandatory for mega projects, the threshold value of which can be determined by the Board of a CPSE and specified in its CSR policy.

xviii) Within the provisions of the Act, Schedule VII of the Act, and the CSR Rules, CPSEs are encouraged to take up CSR activities / projects in collaboration with other CPSEs for greater social, economic and environmental impact of their CSR activities / projects.

xix) CSR projects taken up by CPSEs in 2013-14 under DPE guidelines on CSR & Sustainability which were effective from 1st April 2013, would remain valid till their completion. Ministry of Corporate Affairs has clarified that companies may take a liberal interpretation of the scope of activities listed under Schedule-VII, so that the CSR activities / projects taken up by CPSEs under DPE guidelines on the subject, effective from 1st April, 2013, are covered thereunder.

xx) CPSEs which are not companies registered under the Companies Act 1956 or the Companies Act 2013, shall also have to comply with the provisions of the Act, CSR Rules and the Guidelines.

xxi) These guidelines will supersede all the guidelines / circulars / instructions issued earlier by DPE on the subject of CSR and Sustainability.