Companies' CSR performance to come under scrutiny from April

Updated: 07 Mar 2022, 01:22 AM IST

NEW DELHI: Corporate social responsibility (CSR) spending performance of companies is set to come under scrutiny after March when the first cycle of reporting under the new penalty regime gets completed, said a person with knowledge of the matter.

The due date for reporting CSR compliance in a new format introduced in February is the end of March after the penalty provision for defaulting on spending obligation came into effect in January 2021. The filings will be reviewed once the reporting cycle is over, the person cited above said on condition of anonymity.

While notifying the new penalty provisions last January, the ministry of corporate affairs also made sweeping changes to rules to make companies more accountable and offer some flexibility in CSR spending.

The penalty provision was introduced, replacing an imprisonment provision for defaults that was never given effect due to protests from the industry. The proposed scrutiny of CSR returns signifies the government's intention to enforce the CSR obligations of profit-making businesses so that they contribute to society and the community besides generating wealth for shareholders.

The key change in the new regulatory regime of CSR spending is that defaulting firms and officers may face monetary penalties, unlike in the earlier regime in which businesses could get away with explaining why they could not spend the amount as required under the law. After the first reporting cycle, defaulting businesses will be held accountable.

An email sent to the corporate affairs ministry spokesperson on Sunday morning wasn't immediately answered till press time.

Official data showed that more than 8,300 businesses spent ₹20,360 crore in over 25,000 CSR projects in FY21, led by Reliance Industries Ltd, Tata Consultancy Services Ltd, Tata Sons Pvt. Ltd, HDFC Bank Ltd, Oil and Natural Gas Corp. Ltd and Indian Oil Corp. Ltd.

Experts said that the new reporting requirement—electronic form CSR-2—is designed to better capture how companies are performing in this area and facilitate data mining for policy interventions.

"CSR-2 form is detailed and calls for information on the CSR committees formed by businesses, its members and the welfare projects undertaken. Businesses cannot escape the mandatory spending obligation in the new penalty regime. Unspent amounts have to be transferred to designated accounts. It is a good disclosure framework that will help both the companies and the government," said Sonam Chandwani, managing partner at law firm KS Legal & Associates, who heads the firm's corporate litigation practice.

Chandwani said it is not a challenge for firms to meet this reporting requirement, except perhaps for some entities that may have recently started making a profit and have come under CSR obligation for the first time.

Resource: Live Mint, 07 Mar 2022

She said that the CSR regulatory regime is simple, and there is not much scope for litigation on this front.

The penalty under the new regime could go up to ₹1 crore for companies and ₹2 lakh for each defaulting offence.

The government has also given businesses the flexibility in the new regime to spend more than their obligation—2% of net profits—which could be adjusted against future spending obligations.

Meanwhile, states where large corporations are based such as Gujarat, Maharashtra, Karnataka and Delhi, remained major recipients of CSR funds, official data showed.