CHAPTER IV

Corporate Social Responsibility

4.1 Introduction

The primary objective of Corporate Social Responsibility (CSR) is to promote responsible and sustainable business philosophy at a broad level and to encourage companies to come up with innovative ideas and robust management systems to address social and environment concerns of the country. Broadly, the CSR mandate has been aligned with the national priorities such as public health, education, livelihood, water conservation, natural resource management etc. CSR awareness and CSR consciousness has grown vividly among large and medium sized companies, which now look at CSR to build a strategic fit with the community and environment in which they operate.

The concept of CSR provides a robust framework for companies to collaborate in contributing to the country's development challenges through its managerial skills, technology and innovation. Besides providing an overall guidance framework for the corporates to carry out their CSR initiatives, it also provides them with ample autonomy and flexibility to design and implement programmes. The monitoring is based on disclosures made by the company in its annual report as per the prescribed format.

Legal Framework: Section 135 of Companies Act, 2013 (hereinafter called 'the Act') deals with the subject of CSR and lays down the qualifying criteria based on net worth, turnover and net profit during immediately preceding financial year for companies which are required to undertake CSR activities. This section *inter alia* specifies the broad modalities of selection, implementation and monitoring of CSR activities by the Board of Directors of the Company. The activities which may be included by the companies in their CSR policies are listed in Schedule VII of the Act. The Act makes it mandatory for a company to spend, annually at least two *per cent* of average net profit of three immediately preceding financial years towards CSR activities.

The compliance of the provisions of CSR under the Act i.e., constitution of CSR Committee, formulation of CSR Policy and spending of prescribed amount on CSR activities came into force from April, 2014. In February 2014, Ministry of Corporate Affairs (MCA) issued Companies (Corporate Social Responsibility Policy) Rules, 2014 (hereafter referred to as the Rules). The CSR Rules were made applicable to all companies including CPSEs with effect from 01 April 2014. Department of Public Enterprises (DPE) issued (August 2016) notification on observance of transparency and due diligence in selection and implementation of activities under CSR by CPSEs. In December 2018, DPE issued guidelines related to utilisation of funds on theme-based approach. School education, health care and nutrition were taken up as themes for focussed intervention for the year 2019-20. The target for CSR expenditure on common theme was 60 *per cent* of annual CSR expenditure. The guidelines also directed that aspirational districts as identified by NITI Aayog may be given preference.

Amendments were issued to the Schedule VII of the Act during the year 2019-20 for inserting item (xii) 'disaster management, including relief and reconstruction activities' (30 May 2019) and substituting earlier provisions under item (ix) (11 October 2019).

4.2 Audit objective

Audit objective of compliance audit on CSR activities of the CPSEs was to ascertain whether the provisions of the Companies Act 2013, Companies (CSR Policy) Rules, 2014 and DPE guidelines were complied with by the CPSEs. The Audit generally covered the areas relating to constitution of CSR committee, formulation and compliance of CSR policy, incurrence of expenditure on CSR activities as per the provisions of the Act, consideration of needs of the local people while prioritizing the selection of activities/ projects, transparency and due diligence in selection and implementation of CSR activities and focus for incurring of the CSR expenditure on common theme.

4.3 Audit scope and coverage

Audit reviewed the CSR activities carried out by 95 CPSEs under the administrative control of various Ministries/ Departments during the year 2019-20. The selected 95 CPSEs included 10 Maharatnas, 11 Navratnas, 47 Miniratnas and 27 other companies ***(Annexure XXVI)***. Audit selected 95 CPSEs out of 154 CPSEs which earned profit for 2018-19 as published in the Survey Report of DPE, details of which is given in Table 4.1.

Table 4.1: Selection of CPSEs for review of CSR activities

Net profit of CPSEs	No. of CPSEs	No. of CPSEs selected	Percentage of selected CPSEs	No. of CPSEs reviewed	Percentage of reviewed CPSEs
Above ₹100 crore	78	78	100	74	95
₹50 - ₹100 crore	23	12	50	10	43
₹10 - ₹50 crore	40	10	25	09	23
₹10 - ₹5 crore	13	02	10	02	15
Total	**154***	**102***		**95***	

* *The list of 154 and 102 CPSEs is given in **Annexure XXVII**. Out of 102 CPSEs selected based on percentage sampling, 14 CPSEs did not fulfil the criteria for incurring the CSR expenditure based on the net profit worked out under Section 198 of the Companies Act, 2013. Out of these, seven CPSEs (ONGC Videsh Limited, HMT Watches Limited,*

Fertilizer Corporation of India Limited, Kanti Bijlee Utpadan Nigam Limited, HLL Lifecare Limited, Hindustan Fertilizer Corporation Limited and Prize Petroleum Company Limited) were not selected as they did not incur expenditure on CSR activities. Seven CPSEs (Steel Authority of India Limited, Bharat Coking Coal Limited, Fertilizers & Chemicals (Travancore) Limited, Eastern Coalfields Limited, India Infrastructure Finance Company Limited, Air India Express Limited and Western Coalfields Limited) despite negative net profit under Section 198 incurred expenditure on CSR activities and hence were selected.

4.4 Audit criteria

Audit analysis was carried out against the following criteria:

i. Provisions contained in Section 135 and Schedule VII of the Companies Act, 2013 (as amended upto 31 March 2020),

ii. Provisions of Companies (Corporate Social Responsibility Policy) Rules, 2014 (as amended upto 31 March 2020),

iii. DPE guidelines on CSR issued since 01 August 2016.

4.5 Audit findings

Audit findings on compliance of the provisions of the Act, Rules and DPE guidelines with regard to constitution of CSR Committee, formulation and compliance of policy, planning and execution of CSR activities and monitoring and reporting thereof by the CPSEs are brought out in the following paragraphs:

4.5.1 Planning:

4.5.1.1 Constitution of CSR Committee

As per Section 135(1) of the Act, every company having a net worth of ₹500 crore or more or turnover of ₹1,000 crore or more or a net profit of ₹5 crore or more during immediately preceding financial year shall constitute a CSR committee of the Board consisting of three or more Directors, out of which at least one Director shall be an Independent Director. Further, according to Rule 5(1)(i) of CSR Rules, 2014, an unlisted public company covered under Section 135(1) is not required to appoint an Independent Director pursuant to Section 149(4) of the Act and it shall have its CSR Committee without such Director.

Audit observed that all 95 CPSEs selected for Audit formed CSR committee as required under the Act except NMDC CSR Foundation which did not form CSR committee, being a Section 8 Company. However, there is no exemption to Section 8 companies vide MCA FAQs dated 12 January 2016. Reply of the company was awaited.

All CPSEs were having minimum of three Directors in the committee in accordance with Section 135(1) of the Act except for Cotton Corporation of India Limited, which had only two Directors. The company stated that the Independent Director was not appointed after completion of the tenure on 01 February 2020 by the Government, who owns 100 *per cent* shares of the company.

All the listed CPSEs had Independent Directors as required under the Act.

4.5.1.2 Framing of CSR policy

4.5.1.2.1 Formulation and approval of policy by the CPSEs

Section 135(3) of the Act requires that the CSR committee shall formulate and recommend a CSR policy for the company to the Board who shall, as per the Section 135(4) approve the same after taking into account the recommendations of the committee. All CPSEs had framed the CSR policy and the respective Board had approved the same.

4.5.1.2.2 Deviations noticed in the policies framed

CSR policies of Air India Express Limited and Hindustan Petroleum Corporation Limited indicate areas of activity in which CSR projects have to be undertaken by these companies. Section 135(4)(b) of the Act requires the Board to ensure that the activities as included in CSR policy of the company are undertaken by the company. However, the provisions of the CSR policy of Air India Express Limited and Hindustan Petroleum Corporation Limited allowed the CSR committee to approve any projects/ programs/ activities in the areas other than the activities/ areas indicated in the CSR policy. This provision was not in line with the Section 135(4)(b) of the Act which only allowed the Board the leeway to approve projects outside the areas indicated in the CSR policy. Air India Express Limited and Hindustan Petroleum Corporation Limited noted the observation for future compliance.

4.5.2 Financial component

4.5.2.1 Allocation of funds

As per Section 135(5) of the Act, the Board shall ensure that the company spends annually two *per cent* of average net profit of three immediate preceding financial years in pursuance of its CSR policy.

In this regard, Audit observed that the selected 95 CPSEs allocated ₹4,298.13 crore against the minimum ₹3,949.70 crore required in terms of two *per cent* of average net profit calculated as per Section 198 of the Act. Thus, there was excess allocation of ₹348.43 crore compared to the minimum requirement ***(Annexure XXVIII A)***. Twenty-nine CPSEs allocated more than the minimum two *per cent*, the excess allocation being ₹351.95 crore and three CPSEs allocated less than two *per cent*, the shortfall in allocation being ₹3.53 crore. Sixty CPSEs allocated the minimum required two *per cent* CSR funds ***(Annexure XXVIII B)***. Three CPSEs viz. Air India Express Limited, India Infrastructure Finance Company Limited and Fertilizers & Chemicals Travancore Limited did not allocate funds on account of negative net profit under Section 198 but incurred CSR expenditure. Audit noticed the following cases on improper determination of the CSR expenditure under Section 198 of the Act:

(a) **Adding back of CSR expenditure while calculating the net profit under Section 198**

Section 198 of the Act elaborates the manner of calculation of net profit which is adopted for determining CSR expenditure for a year. Audit observed that while the section mentions particularly the expenses and incomes which are allowed as deduction, it does not explicitly state whether the CSR expenditure incurred in the preceding three years and already deducted while drawing the financial statements of the company is allowed to be deducted or not from the net profit. If it is not allowed as deduction, then it has to be added back while calculating net profit for the preceding three financial years.

Audit observed that CPSEs are following different practices in respect of CSR expenditure while calculating the net profit under Section 198 of the Act. As per the information received in respect of 26 CPSEs out of 95 CPSEs, nine CPSEs have added back the CSR expenditure while calculating the net profit resulting in allocation of CSR expenditure higher by ₹11.95 crore whereas, 17 CPSEs have not added back the CSR expenditure resulting in allocation of CSR expenditure less by ₹23.47 crore ***(Annexure XXIX)***. The clarification given by the CSR committee of the ICAI in April 2020 stated that the net profit is to be calculated after deducting CSR expenditure.

Recommendation 1

Ministry of Corporate Affairs may issue clarification to CPSEs for following uniform practice in calculating the net profit under Section 198 of the Companies Act, 2013 for determining the quantum of CSR allocation.

(b) Air India Express Limited adjusted accumulated losses incurred prior to 2014 in view of the amendment dated 12 September 2018 to Section 198(4)(l) of the Act relating to adjusting of the excess of expenditure over income. This resulted in non-allocation of CSR expenditure amounting to ₹28.46 crore by the company. Audit observed that adjusting of the losses incurred prior to 01 April 2014 while calculating net profit during the 2019-20 was in violation of the provisions of the Section 135(5) of the Act, which specifically provides for spending of at least two *per cent* of the average net profits of the company made during the three immediately preceding financial years. The company has earned net profit during the year 2016-17, 2017-18 and 2018-19, which should have been considered while calculating average net profit. The company stated that the amendment dated 12 September 2018 to Section 198(4)(l) of the Act enabled it not to allocate CSR expenditure during the year.

The reply is not tenable as the amendment dated 12 September 2018 to Section 198(4)(l) of the Act cannot be applied retrospectively. The Company has adjusted accumulated losses incurred prior to 2014 while the Act was enacted in 2013. This has also been clarified by National Company Law Appellate Tribunal, New Delhi in its judgment passed on 1 July, 2019.

4.5.2.2 Utilisation of Funds

Section 135(5) of the Act states that the Board shall ensure that the company spends, in every financial year, at least two *per cent* of average net profit of preceding three years. DPE also advised (August 2016) that all efforts should be made by CPSEs to fully utilise the allocated CSR funds for the year.

Audit observed that against the prescribed two *per cent* amount of ₹3,949.70 crore and allocation of ₹4,298.13 crore, 95 CPSEs incurred CSR expenditure of ₹5,033.96 crore.

Thus, the CPSEs incurred additional ₹1,084.26 crore, over the prescribed minimum two *per cent* during the year. Sixty-seven CPSEs incurred ₹1,174.38 crore more than minimum required two *per cent*, of which four CPSEs viz. Coal India Limited (₹163.24 crore), Bharat Petroleum Corporation Limited (₹146.59 crore), Power Grid Corporation of India Limited (₹136.29 crore) and Rural Electrification Company Limited (₹101.71 crore) contributed ₹547.83 crore to the excess spending ***(Annexure XXVIII A)***.

- 10 CPSEs[70] incurred prescribed minimum expenditure of two *per cent* CSR funds (₹557.45 crore) during the financial year.
- Shortfall was reported by18 CPSEs[71] amounting to ₹90.13 crore, which was in the range of 2.4 *per cent* to 100 *per cent*. Power Finance Corporation Consulting Limited did not spend the allocated amount of ₹1.17 crore (100 *per cent* shortfall). The Company replied that the shortfall in CSR expenditure was due to COVID 19 lockdown.
  Audit observed that the lockdown was imposed only at the end of the year 2019-20, which should not have impacted CSR expenditure for the entire year.

4.5.2.3 Sector wise CSR expenditure

Audit covered 95 CPSEs across various sectors. Highest expenditure on CSR was by petroleum sector (12 CPSEs, ₹2,110.28 crore) followed by power sector (21 CPSEs, ₹1,345.28 crore) and mining sector (18 CPSEs, ₹956.86 crore). Least CSR expenditure was by fertilizer sector (3 CPSEs, ₹9.19 crore). Sector wise CSR expenditure is given in Table 4.2.

Table 4.2: Sector wise CSR expenditure

Sl. No.	Sector	No. of CPSEs	Actual expenditure (including carry forward) (₹ in crore)
1	Aviation	04	128.74
2	Mining	18	956.86
3	Defence	08	175.25
4	Fertilizer	03	9.19
5	Petroleum	12	2,110.28

[70]Balmer Lawrie Investments Limited, POWERGRID Vizag Transmission Limited, AAI Cargo Logistics &Allied Services Company Limited, HSCC (India) Limited, Chandigarh International Airports Limited, Indian Railway Catering and Tourism Corporation Limited, Indian Oil Corporation Limited, POWERGRID Parli Transmission Limited, POWERGRID Warora Transmission Limited and POWERGRID Jabalpur Transmission Limited.

[71]The Cotton Corporation of India Limited, Northern Coalfields Limited, National Fertilizers Limited, Central Warehousing Corporation Limited, NBCC (India) Limited, Indian Railway Finance Corporation Limited, Container Corporation of India Limited, IRCON Infrastructure & Services Limited, Hindustan Shipyard Limited, Kamarajar Port Limited, NLC Tamil Nadu Power Limited, MMTC Limited, Power Finance Corporation Limited, GAIL Gas Limited, PFC Consulting Limited, Security Printing & Minting Corporation of India Limited , Konkan Railway Corporation Limited and EDCIL (India) Limited.

6	Power/ transmission	21	1,345.28
7	Railway	09	111.10
8	Shipping	02	23.40
9	Others	18	173.86
Total		**95**	**5,033.96**

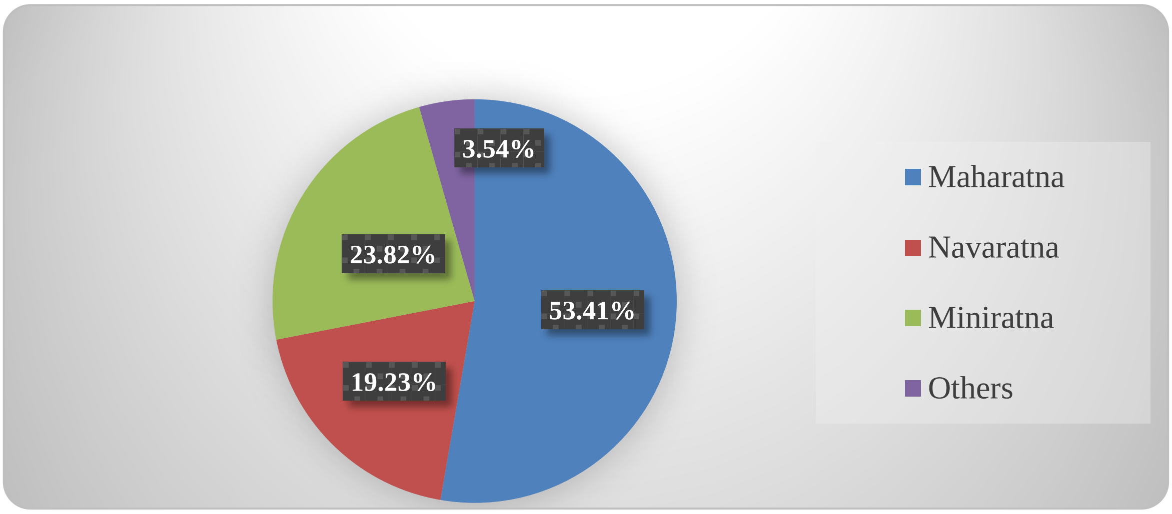
Petroleum, Aviation, Mining, Defence, Shipping, Power and sectors falling under other Ministries incurred expenditure more than required two *per cent*, highest being Mining sector with ₹347.02 crore. Shortfall was observed in Fertilizer and Railway sectors; the maximum was in Railway sector CPSEs of ₹14.23 crore ***(Annexure XXX)***.

4.5.2.4 CPSEs with highest expenditure

Total expenditure on CSR activities by 95 CPSEs in 2019-20 was ₹5,033.96 crore (***Annexure XXVIII A***). Oil & Natural Gas Corporation Limited incurred CSR expenditure of ₹606.97 crore, which amounted to 12.06 *per cent* of the total CSR expenditure. This was followed by Indian Oil Corporation Limited with ₹543.38 crore, Power Grid Corporation of India Limited: ₹346.21 crore, Bharat Petroleum Corporation Limited: ₹345.57 crore and NTPC Limited: ₹304.92 crore. As against total CSR expenditure of ₹5,033.96 crore, five CPSEs (three in petroleum sector and two in power sector) accounted for 42.65 *per cent* with total of ₹2,147.05 crore.

CSR expenditure by 10 Maharatnas was ₹2,688.59 crore (53.41 *per cent*), 11 Navratnas was ₹967.92 crore (19.23 *per cent*), 47 Miniratnas was ₹1,198.96 crore (23.82 *per cent*) and 27 other CPSEs was ₹178.49 crore (3.54 *per cent*). The Maharatnas, Navratnas and Miniratnas contributed ₹4,855.47 crore (96.46 *per cent*) out of the total CSR expenditure. Hence, in terms of the number of the CPSEs, 71.58 *per cent* of the CPSEs conferred Ratna status have contributed 96.46 *per cent* of the total CSR expenditure whereas 28.42 *per cent* other CPSEs contributed only 3.54 *per cent* CSR expenditure (***Annexure XXXI***).

Chart 4.1: Expenditure on CSR by CPSEs



4.5.2.5 State wise CSR expenditure

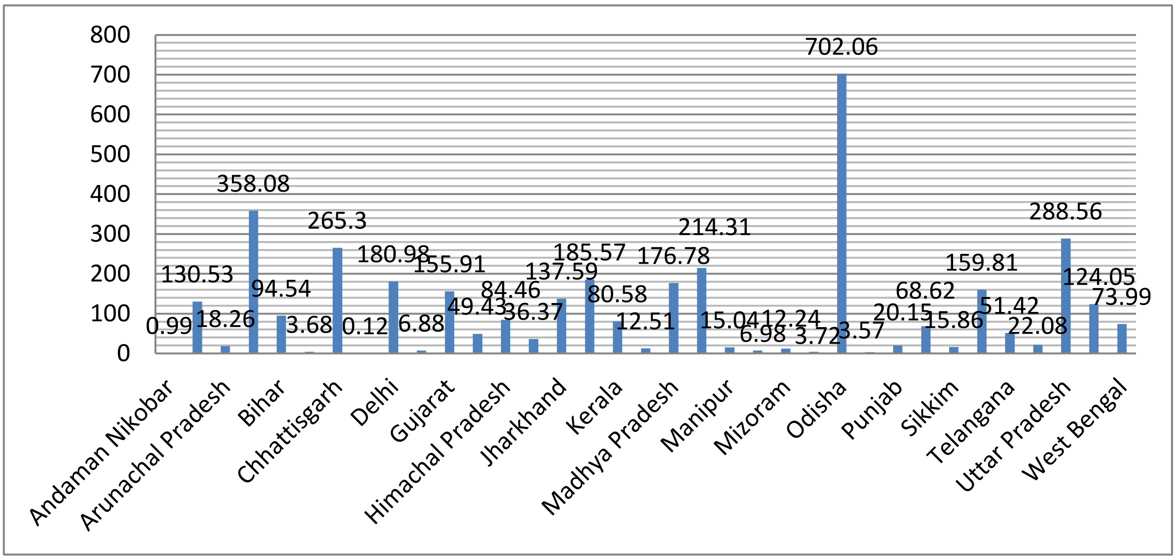
The highest CSR expenditure was in Odisha with ₹702.06 crore (13.94 *per cent*) followed by Assam with ₹358.08 crore (7.11 *per cent*) and Uttar Pradesh: ₹288.56 crore (5.73 *per cent*). Maximum CSR expenditure in Odisha was by Indian Oil Corporation Limited (₹205.97 crore), followed by Mahanadi Coalfields Limited (₹165.50 crore). Maximum CSR expenditure in Assam was by Oil and Natural Gas Corporation Limited (₹105.75 crore), followed by Oil India Limited (₹96.68 crore). These three States accounted for 26.77 *per cent* of total CSR expenditure. The CSR expenditure was least in Daman & Diu (₹0.12 crore) followed by Andaman and Nicobar Islands (₹0.99 crore), Puducherry (₹3.57 crore) and Chandigarh (₹3.67 crore).

Audit observed that Odisha topped in terms of getting highest funding through CSR successively in the third year since 2017-18. During the year 2017-18 and 2018-19, ₹387.86 crore and ₹481.00 crore were incurred respectively. Out of the 37 CPSEs which contributed ₹702.06 crore in Odisha, nine oil and gas CPSEs alone contributed ₹350.75 crore i.e. around 50 *per cent* during the year 2019-20. Uttar Pradesh and Assam were also among the top three States in receipt of the maximum CSR funding during the years 2018-19 and 2019-20. Daman & Diu, Andaman & Nicobar, Chandigarh, Manipur, Nagaland and Mizoram were among the states which received least attention during the past three years.

As regards quantum of incurring of expenditure in any State, Audit observed that 112 relatively less developed districts (Aspirational Districts) in various States were identified to improve their socio economic indicator by considering 49 key performance indicators in six different sectors. NITI Aayog was involved in the identification process of these districts. The States which had maximum number of districts were Bihar (13 districts), Jharkhand (19 districts) and Chattisgarh (10 districts). Odisha which had 10 districts identified, got the maximum CSR funding during the last three years. The other two states (UP and Assam) which got the maximum CSR funding had eight and seven districts respectively.

Chart 4.2: State-wise CSR expenditure incurred

(₹ in crore)



Among States other than North East, least expenditure (₹6.89 crore) was incurred in Goa which was 0.14 *per cent* of total CSR expenditure. In respect of North East States (eight States), ₹452.26 crore were incurred during 2019-20. Assam got the maximum CSR expenditure of ₹358.08 crore and Nagaland got the least expenditure of ₹3.72 crore among North East States.

4.5.2.6 Contribution to non-eligible Government funds

Four CPSEs, viz., Antrix Corporation Limited, Satluj Jal Vidyut Nigam Limited, NHPC Limited and Bharat Cooking Coal Limited included contributions to the following funds under CSR expenditure though contributions to these funds were not eligible for CSR expenditure as per the response to frequently asked questions issued (April 2020) by MCA. The contribution made by the CPSEs in non-eligible Government Funds is given in Table 4.3.

Table 4.3: Contribution made by CPSEs in non-eligible Government funds

(₹ in crore)

CPSE	Contribution	Amount
Antrix Corporation Limited	Kerala Chief Minister Relief Fund	0.50
Bharat Coking Coal Limited	Chief Minister Relief Fund	0.50
NHPC Limited	CM Relief Fund	0.23
SJVN Limited	CM Relief Fund (not for COVID 19)	1.00

SJVN Limited and Antrix Corporation Limited stated that the contribution to the CM Relief fund was made based on the provisions of the General Circular dated 18 June 2014 which stated that ‘the entries in the Schedule VII must be interpreted liberally so as to capture the essence of the subjects enumerated in the said schedule. The items enlisted in the amended Schedule VII of the Act, are broad based and are intended to cover a wide range of activities. It also stated that the subject contribution was made before the release of the FAQ on 10 April 2020 which stated that the contribution to the CM Relief fund is not included in the Schedule VII of the Act.

The reply of the company is not tenable because the contribution to the subject fund is not part of Schedule VII which specifically mentions the funds eligible as CSR expenditure under the Schedule VII. Further, though the contribution can be made to the subject fund, the same cannot be included under CSR expenditure resulting in overstatement of the CSR expenditure and tantamount to CSR expenditure on an ineligible activity in terms of the provisions of the Act.

Reply was awaited in case of NHPC Limited and Bharat Coking Coal Limited.

4.5.2.7 Administrative overheads

As per CSR Rule 4(6), administrative overhead expenditure shall not exceed five *per cent* of overall CSR expenditure of the company for the financial year.

In this regard, Audit observed that:

- Overhead expenditure exceeded the limit of five *per cent* in respect of three CPSEs viz. NMDC Foundation (13.23 *per cent*), National Minorities Development and Finance Corporation (10.08 *per cent*) and Mineral Exploration Corporation Limited (6 *per cent*).
- 26 CPSEs included salaries in their administrative overheads amounting to ₹85.64 crore and 69 CPSEs did not include salaries in their administrative overheads.

As regards inclusion of the salary in the administrative overheads, it was observed that clarification issued on 18 June 2014 by MCA mentioned that the salaries paid by the companies can be included in the CSR expenditure. However, the clarification was omitted in the amendment dated 12 September 2014 which allowed the companies to incur expenditure including administrative overheads upto five *per cent* under Rule 4(6) of Companies (CSR Policy) Rules, 2014. It was observed that while some of the CPSEs (like Hindustan Petroleum Corporation Limited, Oil & Natural Gas Corporation Limited) are including salaries of the CSR personnel in the administrative overheads, some (like Bharat Petroleum Corporation Limited) are not doing so. Hindustan Petroleum Corporation Limited cited clarification provided by MCA vide 'FAQ on CSR Cell' and Oil & Natural Gas Corporation Limited stated that CSR committee of ICAI clarified that salary will be considered within the overall limit of five *per cent* as per Rule 4 (6). Although MCA clarification is available on 'FAQ on CSR Cell', CPSEs are following different practices in the matter.

Recommendation 2

Ministry of Corporate Affairs may issue directives to CPSEs for following a uniform practice regarding inclusion of salary in the administrative overheads as prescribed in Rule 4(6) of Companies (CSR Policy) Rules, 2014.

4.5.2.8 Implementation of DPE guidelines on common theme

DPE issued (December 2018) guidelines for utilization of CSR funds in a focused manner towards national priorities by adopting theme based approach every year. The guidelines envisaged around 60 *per cent* of annual CSR expenditure on common theme and preference was to be given for incurring expenditure in the aspirational districts. DPE communicated common theme, 'School Education, Health care and Nutrition' for the year 2019-20 vide OM dated 29 May 2019.

While 53 CPSEs could achieve the prescribed target of 60 *per cent* CSR expenditure on common theme, 29 CPSEs incurred CSR expenditure less than the target and 8 CPSEs did not incur any amount on the common theme. Data for the remaining five CPSEs was not available. CPSEs incurred ₹3,052.75 crore on the common theme during the year **(*Annexure XXXII*)**.

As regards preference while incurring CSR expenditure on common theme at aspirational districts, data in respect of 85 CPSEs was available, of which 34 CPSEs incurred less than 25 *per cent* in the aspirational districts, 19 CPSEs did not incur any amount and expenditure incurred by 32 CPSEs was above 25 *per cent* at the aspirational districts. Data in respect of 10 CPSEs was not furnished.

4.5.3 Project implementation

4.5.3.1 Selection of CSR projects/ activities

Conduct of base line survey and assessment: Out of 95 CPSEs, 50 CPSEs had undertaken baseline survey and need assessment studies for identifying the CSR project/ activity in respect of 8,264 projects. 37 CPSEs did not conduct baseline survey and need assessment studies and 8 CPSEs did not furnish the data **(*Annexure XXXIII*).**

4.5.3.2 Manner of implementation of CSR activities

Rule 4 of Companies (CSR) Rules, 2014 exclusively deals with the manner in which the CSR activity is to be undertaken under Section 135(1) of the Act. The Board may decide to undertake its CSR activities as recommended by CSR committee through a registered trust/ society or a company established by the CPSE or its holding, subsidiary, or associate company under Section 8 of the Act or otherwise. As per the information available for 80 CPSEs, the manner of implementation of 12,914 CSR projects (3,533 projects implemented directly/ in-house and 9,381 projects executed through Government/ external agencies, NGOs, Society) were as follows:

- 5 CPSEs undertook in-house projects only;
- 17 CPSEs outsourced CSR projects to external agencies;
- 58 CPSEs had undertaken both, in-house projects as well as outsourced CSR projects to external agencies; and
- 7 CPSEs did not undertake any projects but contributed entire amount to the funds.

Out of 9,381 projects implemented through external agencies, CPSEs had resorted to tendering in respect of 1,258 projects; 1,015 projects were undertaken on nomination basis and 7,108 projects were undertaken either through Government agencies/ institutions, local bodies/ community based organisations or on the basis of proposals received from NGOs/ implementing agencies etc. Remaining eight CPSEs did not furnish the information **(*Annexure XXXIV*)**.

4.5.3.3 Focus areas

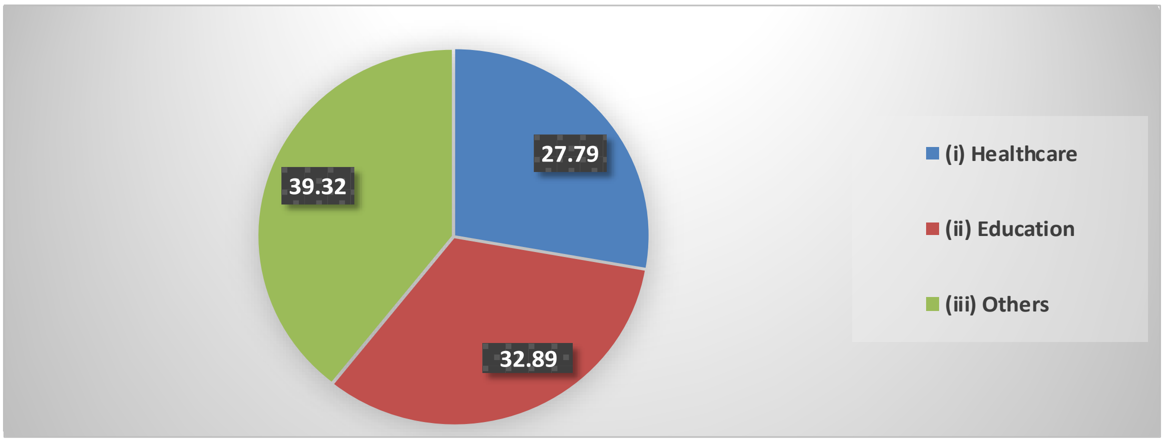


Chart 4.3: Focus Area wise CSR expenditure

As indicated in the chart, education received the maximum focus (32.89 *per cent*). Total expenditure by 95 CPSEs under this head was ₹1,655.66 crore. Next highest expenditure (₹1,398.85 crore by 88 CPSEs) was on health care accounting for 27.79 *per cent*. Least focus areas were contributions/ funds provided to technology incubators located within academic institutions which are approved by the Central Government (₹5.13 crore), measures undertaken for the development of slum area (₹7.09 crore) and to fund set up by the Central Government for socio-economic development and relief and welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women (₹11.30 crore).

Among the top four heads of items i.e., promoting education (₹1,655.66 crore), promoting health care (₹1,398.85 crore), rural development (₹387.82 crore) and environmental sustainability development (₹423.47 crore) as per the schedule VII, Oil and Natural Gas Corporation Limited was the top spender in case of health care and of rural development (₹217.84 crore and ₹44.28 crore) and Indian Oil Corporation Limited was the top spender in case of promoting education and environmental sustainability (₹263.87 crore and ₹104.10 crore respectively). PFC Consulting Limited allocated a budget of ₹1.17 crore but did not incur any amount due to COVID-19 pandemic.

4.5.3.4 Local areas

Section 135(5) of the Act provides that the CPSE shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for CSR activities. CPSEs are considering the arjea of presence/ operations as the local areas. As per the information available in respect of 95 CPSEs:

- 26 CPSEs did not define local area in its CSR policy, 64 CPSEs defined local area in its CSR policy. Operational activities of Indian Railway Finance Corporation Limited, REC Limited, RailTel Corporation India Limited and Power Finance Corporation Limited are spread across all the states. NMDCF did not furnish information about defining of the local area **(*Annexure XXXV A*)**.
- As per the data available in respect of 38 CPSEs, expenditure in non-operational area was ₹623.89 crore. Six CPSEs incurred more than 50 *per cent* of CSR funds in non-operational area, of which three CPSEs spent 100 *per cent* in non-operational areas. 16 CPSEs incurred 100 *per cent* in local areas. Data in respect of 41 CPSEs was not furnished **(*Annexure XXXV B*)**.

Thus, as per the information available in respect of the 54 CPSEs, 6 CPSEs did not comply with the provisions of the Act with regard to giving preference to the local area as these CPSEs have incurred expenditure of less than 50 *per cent* of CSR funds in local areas.

4.5.4 Monitoring framework

As per Rule 5(2) of CSR Rules 2014, the CSR committee shall institute a transparent monitoring mechanism for implementation of CSR projects/ programs/ activities undertaken by the CPSE. DPE vide OM dated 01 August 2016 instructed the CPSEs to have an institutionalised mechanism for monitoring, reporting and evaluation of CSR.

In respect of institutional mechanism for monitoring, reporting and evaluation of the CSR, Audit observed that out of 95 CPSEs, 5 CPSEs did annual monitoring, 25 CPSEs did monthly review, 23 CPSEs quarterly/ bimonthly, 6 CPSEs half yearly, 10 CPSEs held regular/ concurrent/ multiple/ frequent meetings as per the project requirement. For the remaining 26 CPSEs, specific data in this regard was not available **(*Annexure XXXVI*).**

4.5.5 Reporting and Disclosure

As per Section 135(2) read with Section 134(3)(o) of the Act, a Company is required to include an annual report on CSR in their Board of Directors' Report and place it on the official website. According to Rule 9 of CSR Rules, 2014, the companies have to disclose the following in the prescribed format:

1. Contents of CSR policy and its web link, average net profit, composition of CSR committee, administrative overheads, prescribed amount, unspent amount, reasons for unspent amount.
2. Include a responsibility statement signed by the CSR committee that the implementation and monitoring of CSR policy was in compliance with the CSR objective and policy of the company.

It was observed that five CPSEs (Central Coalfields Limited, Uranium Corporation of India Limited, South Eastern Coalfields Limited, National Scheduled Caste Finance Development Corporation and Fertilizers & Chemicals Travancore Limited) did not indicate responsibility statement in the Annual Report as required under Rule 9 of Companies (CSR Policy) Rules 2014.

4.6 Conclusion

Audit observed that all the selected CPSEs had framed the CSR Policy and formed CSR Committee in pursuance of provisions of the Companies Act, 2013. Out of 95 CPSEs reviewed, 29 CPSEs allocated funds towards CSR more than the prescribed minimum two *per cent* of average net profit of three immediate preceding financial years in pursuance of its CSR Policy and 60 CPSEs allocated the required minimum two *per cent*. While three CPSEs allocated less than two *per cent*, three other CPSEs did not allocate funds on account of negative net profit under Section 198 of Companies Act, 2013. As against the prescribed two *per cent* amounting to ₹3,949.70 crore, 95 CPSEs allocated CSR fund of ₹4,298.13 crore and incurred expenditure of ₹5,033.96 crore. While 67 CPSEs incurred expenditure more than the required two *per cent* on CSR, 10 CPSEs incurred the prescribed minimum expenditure and 18 CPSEs incurred less than the minimum required expenditure on CSR.

Petroleum, Aviation, Mining, Shipping and Power sectors incurred expenditure more than the required two *per cent*, highest being the Mining sector. Shortfall was observed in Fertilizer and Railway sectors. Education received the maximum focus followed by health care in CSR expenditure by CPSEs.

In terms of CSR expenditure in the States, the highest CSR expenditure was in Odisha with ₹702.06 crore during 2019-20. It got the highest CSR funding successively for the third year since 2017-18. This amount of ₹702.06 crore was contributed by 37 CPSEs, of which nine oil and gas CPSEs alone contributed ₹350.75 crore during the year. Daman & Diu, Andaman & Nicobar, Chandigarh, Manipur, Nagaland and Mizoram were among the States which received least attention during the past three years.

Out of 95 CPSEs, 29 CPSEs incurred CSR expenditure less than the target of 60 *per cent* on common theme of school education, health care and nutrition, 53 CPSEs achieved the prescribed target while eight CPSEs did not incur any expenditure. Data for the remaining five CPSEs was not available. Similarly, data in respect of CSR expenditure on common theme at aspirational districts was available for 85 CPSEs, of which 34 CPSEs incurred expenditure less than 25 *per cent* in the aspirational districts, 32 CPSEs incurred expenditure in excess of 25 *per cent* and 19 CPSEs did not incur any expenditure in aspirational districts.

Department of Public Enterprises stated (August 2021) that they have no comments to offer on this Chapter.