

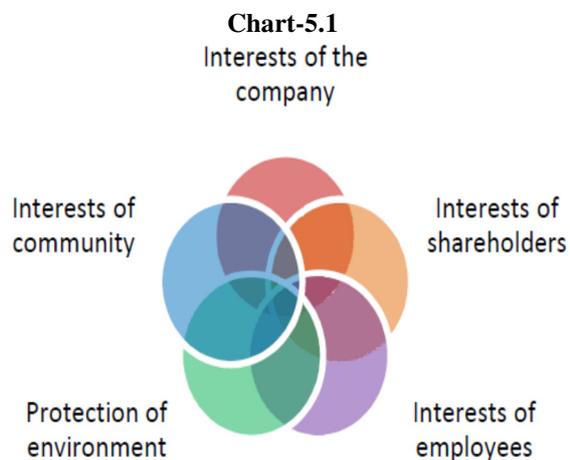
CHAPTER - V
CORPORATE SOCIAL
RESPONSIBILITY

Chapter-V

Corporate Social Responsibility

5.1 Introduction

Corporate Social Responsibility (CSR) is the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the local community at large. It recognizes the interests of its stakeholders and the general community at large by covering sustainability, social impact and ethics. The concept of CSR rests on the ideology of give and take. Companies take resources in the form of raw materials, human resources etc., from the society. By performing CSR activities, the companies are giving something back to the society.



India is the first country in the world to make CSR mandatory, with the coming into force of Section 135 and schedule VII of the Companies Act, 2013 in April 2014. The Companies Act, 2013 and the Companies CSR Rules 2014 mandate and regulate the social spending by the Companies. The inclusion of the CSR mandate under the

Companies Act, 2013 is an attempt to supplement the Government's efforts of equitably delivering the benefits of growth and to engage the Corporate Sector with the State's development agenda.

Legal Framework: Section 135 of Companies Act, 2013 (hereafter referred to as the Act), deals with the subject of Corporate Social Responsibility (CSR) and lays down the qualifying criteria based on net worth, turnover and net profit during any financial year⁶⁷ for companies which are required to undertake CSR activities and *inter alia* specifies the broad modalities of selection, implementation and monitoring of the 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 provisions of Section 135 of the Act and Schedule VII of the Act are applicable to all Companies including State Public Sector Enterprises (SPSEs). The Act makes it mandatory for any Company to spend annually, at least two *per cent* of average net

⁶⁷ As per Amendment 37 of the Companies Act, 2017, to resolve the ambiguity on any financial year, the words 'any financial year' has been replaced with the words immediately preceding financial year. This notification is effective from 19 September 2018.

profit (calculated as per section 198 of the Act) of three immediate 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 of India (MCA) issued Companies (Corporate Social Responsibility Policy) Rules, 2014. The CSR Rules were made applicable to all Companies w.e.f. 1 April 2014.

5.2 Audit Objectives

The objective of compliance audit of CSR activities of the SPSEs was to ascertain whether the provisions of the Act, Companies (Corporate Social Responsibility Policy) Rules 2014, were complied with. In order to assess the efforts of the SPSEs, Audit looked into the following issues:

- Whether the provisions relating to constitution of the CSR Committee, formulation and compliance of policy, planning stages of execution have been complied with;
- Whether the provisions relating to prescribed amount to be spent on specified activities have been complied with; and
- Whether the provisions relating to implementation and reporting have been complied with.

5.3 Audit Scope and Coverage

Audit reviewed the CSR activities of five SPSEs (out of 27 SPSEs excluding two statutory corporations⁶⁸) which were eligible to conduct CSR activities as per criteria under section 135(1) of the Act during 2014-20. Out of five SPSEs, three⁶⁹ were profit making SPSEs (Other than Power Sector) and two⁷⁰ Power Sector SPSEs. Of the two, one had turnover of more than ₹1,000 crore (Himachal Pradesh State Electricity Board Limited) while other (Himachal Pradesh Power Corporation Limited) had Net Worth greater than ₹500 crore.

5.4 Audit Criteria

Audit analysis was carried out against following criteria:

- Provisions contained in Section 135 and Schedule VII of the Act; and
- Provisions of Companies (Corporate Social Responsibility Policy) Rules, 2014.

⁶⁸ Himachal Road Transport Corporation and Himachal Pradesh Financial Corporation.

⁶⁹ Himachal Pradesh State Civil Supplies Corporation Limited (HPSCSC), Himachal Pradesh State Industrial Development Corporation Limited (HPSIDC) and Himachal Pradesh General Industries Corporation Limited (HPGIC).

⁷⁰ Himachal Pradesh State Electricity Board Limited (HPSEBL) and Himachal Pradesh Power Corporation Limited (HPPCL).

5.5 Audit Findings

Audit findings on the extent of compliance with the provisions of the Act with regard to constitution of CSR Committee, formulation and compliance of policy, planning and execution of CSR activities and monitoring & reporting thereof by the SPSEs are given in the following paragraphs.

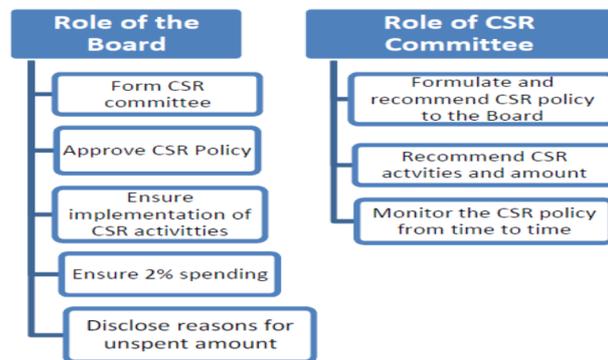
5.5.1 Planning

5.5.1.1 Constitution of CSR Committee

As per section 135 (1) of the Act, every Company qualifying for undertaking CSR activities shall constitute a CSR committee of the Board consisting of three or more Directors. Role of the Board and CSR Committee as per section 135 (1) and (3) of the Act is depicted in the **Chart-5.2**.

Audit noticed that CSR committee was constituted by all five⁷¹ SPSEs eligible to constitute CSR committee. The committee constituted (June 2014) by Himachal Pradesh State Civil Supplies Corporation Limited ceased to exist in September 2018, however, it was re-constituted (January 2021) by the Company.

Chart-5.2



5.5.1.2 Independent Directors in CSR Committee

As per Section 135 (1) of the Act, CSR committee shall have at least one Independent Director. Audit observed that out of five SPSEs where CSR Committee was formed, two SPSEs (Himachal Pradesh State Civil Supplies Corporation Limited and Himachal Pradesh State Industrial Development Corporation Limited) had complied with rule of having at least one Independent Director in the Committee. In respect of remaining three SPSEs (Himachal Pradesh General Industries Corporation Limited, Himachal Pradesh State Electricity Board Limited and Himachal Pradesh Power Corporation Limited), no Independent Director was nominated.

5.5.1.3 Framing of CSR policy

Section 135 (3) of the Act requires that the CSR Committee shall formulate and recommend to the Board a CSR Policy. Four SPSEs⁷² had framed the CSR Policy based on the recommendation of the CSR Committee and approval of Board. One Power Sector SPSE (Himachal Pradesh State Electricity Board Limited) did not frame any CSR Policy so far.

⁷¹ Three SPSEs (Other than Power Sector) viz.; Himachal Pradesh State Civil Supplies Corporation Limited (June 2014), Himachal Pradesh State Industrial Development Corporation Limited (June 2016), Himachal Pradesh General Industries Corporation Limited (July 2018) and two Power Sector SPSEs viz., Himachal Pradesh Power Corporation Limited (June 2014) and Himachal Pradesh State Electricity Board Limited (July 2014) respectively.

⁷² Himachal Pradesh Power Corporation Limited (March 2015), Himachal Pradesh State Civil Supplies Corporation Limited (July 2015), Himachal Pradesh State Industrial Development Corporation Limited (June 2016) and Himachal Pradesh General Industries Corporation Limited (September 2018).

The Himachal Pradesh Power Corporation Limited and Himachal Pradesh State Civil Supplies Corporation Limited formulated CSR Policy during March 2015 and July 2015 and Himachal Pradesh State Industrial Development Corporation Limited and Himachal Pradesh General Industries Corporation Limited in June 2016 and September 2018 respectively. It was seen that Himachal Pradesh State Industrial Development Corporation Limited framed CSR policy during June 2016, but it was required to be prepared from 2014-15 onwards.

- Audit observed that Himachal Pradesh State Industrial Development Corporation Limited had spent ₹1.50 lakh during 2016-18 without approval of CSR Committee. Himachal Pradesh State Civil Supplies Corporation Limited did not undertake CSR activity prior to 2015-16 even though it was qualified to do so as per provisions of the Act.

The requirement of CSR Rule No. 6⁷³ with regard to policy and compliance thereof by four SPSEs during the year 2014-15 to 2019-20 is given below:

Table-5.1: Compliances of CSR Rule No. 6 with regard to policies by SPSEs

Requirement of CSR Rule No. 6	Compliance by SPSEs	
	Yes	No
Policy <i>inter alia</i> to include		
Focus area of Implementation	4*	0
Mode of Implementation	3	1 (HPPCL)
Declaration that surplus from CSR project/activity shall not form part of business profit	0	4
Monitoring framework	3	1 (HPPCL)

*HPSEBL has no Policy in place.

5.5.1.4 Annual CSR Plan and Budget

Role of the CSR Committee is to recommend to the Board the CSR activities and the amount to be spent in the financial year. The Board has to ensure implementation of the CSR activities. This entails planning and approval of CSR activity and budget. As a best practice, the proposed CSR projects and the budget for the ensuing financial year should be presented to the Board for approval through CSR committee latest by 31 March every year. All the three profit making SPSEs (Himachal Pradesh State Civil Supplies Corporation Limited, Himachal Pradesh State Industrial Development Corporation Limited and Himachal Pradesh General Industries Corporation Limited) which were required to spend annually two *per cent* of its average net profit of three immediate preceding financial years towards CSR activity, neither prepared the budget for CSR nor had any Annual CSR plan in place.

In reply the Himachal Pradesh State Industrial Development Corporation Limited stated (June 2021) that the Company had approved (June 2016) the CSR policy and earmarked

⁷³ Rule 6 of CSR specify the requirement of CSR policy which shall *inter-alia* include list of projects which a company plans to undertake along-with mechanism of implementation, surplus arising out of the CSR projects or programs or activities shall not form part of the business profit of a Company and its monitoring process.

two *per cent* of its average net profit of three immediate preceding financial years towards CSR activity. The reply is not based on facts. The Company was required to incur expenditure of ₹127.55 lakh, however, only ₹77.24 lakh was incurred during 2014-20 and contribution (₹3.48 crore) prior to COVID-19 made by the Company towards Chief Minister Relief Fund was not an admissible CSR expenditure.

5.5.2 Financial Component

5.5.2.1 Allocation and Utilisation of Fund

As per Section 135(5) of the Act, it is mandatory for any company to spend annually at least two *per cent* of average net profit of three immediate preceding financial years (calculated under Section 198 of the Act) and Board shall ensure that the Company spends two *per cent* of average net profit of preceding three years. Two *per cent* of average net profit so calculated, allocation to be made and actual expenditure in respect of three profit making SPSEs for the period from 2014-15 to 2019-20 is given in the following table.

Table-5.2: Showing the detail of amount to be spent as per CSR's policy and actually spent by the SPSEs)

(₹ in lakh)

Year	Average net profit (as per section 198 of Act) for the preceding three years	Two <i>per cent</i> allocation to be made	Amount actually spent
2014-15	1,491.87	29.84	-
2015-16	1,588.71	31.77	14.00
2016-17	1,829.90	36.60	21.22
2017-18	2,490.56	49.82	35.01
2018-19	2,863.67	57.28	0.15
2019-20	2,842.98	56.87	150.74*
Total:		262.19	221.12

* Includes expenditure of ₹75 lakh made to Chief Minister Relief Fund (CMRF) for COVID 19.

Audit observed that no SPSEs has allocated funds separately for CSR activities during the period 2014-20. However, against the prescribed norm of two *per cent*, an amount of ₹262.19 lakh was required to be spent; however, the SPSEs incurred expenditure of ₹221.12 lakh (₹146.12 lakh excluding the contribution in CMRF for COVID 19 during 2019-20). The SPSEs wise detail of expenditure for the years 2014-20 is given in **Appendix-5.1**. Audit observed various deficiencies in implementation of CSR policy by each SPSEs as detailed below:

- Himachal Pradesh General Industries Corporation Limited did not spend ₹69.37 lakh as required by CSR policy during 2014-19.
- Against the requirement of ₹94.71 lakh, Himachal Pradesh State Industrial Development Corporation Limited spent only ₹1.50 lakh during 2014-19.
- During 2014-15 and 2018-20, Himachal Pradesh State Civil Supplies Corporation Limited incurred expenditure of only ₹0.15 lakh towards CSR against the required amount of ₹21.62 lakh.

Himachal Pradesh State Industrial Development Corporation Limited stated (June 2021) that the Company has incurred ₹3.48 crore during 2014-19 against requirement of ₹94.71 lakh. The reply is not acceptable as the amount was contributed to Chief Minister Relief Fund which was not part of admissible CSR expenditure. Further contribution of ₹75 lakh towards Chief Minister Relief Fund for COVID 19 during 2019-20 was not admissible.

5.5.2.2 Power Sector SPSEs with negative net profit

The average net profit (calculated under section 198 of the Act) of two Power Sector SPSEs (Himachal Pradesh State Electricity Board Limited: (-) ₹17.00 crore to (-) ₹196.60 crore and Himachal Pradesh Power Corporation Limited: (-) ₹6.10 crore to (-) ₹43.10 crore) remained negative during 2014-18 as per their latest finalized accounts as of 31 December 2020. Hence, both Power Sector SPSEs were not required to incur any expenditure towards CSR.

5.5.2.3 Accounting of unspent amount

As per the Guidance Note (GN) on Accounting for CSR issued by the Institute of Chartered Accountants of India, the unspent amount is to be disclosed only in the Board's Report and no provision is to be made in the accounts for the unspent amount. However, if a company has already undertaken certain CSR activity for which a contractual liability has been incurred then in accordance with the generally accepted accounting principles, a provision for the amount to the extent for which the CSR activity was to be completed during the year, needs to be recognized in the books.

It was observed that Himachal Pradesh State Industrial Development Corporation Limited and Himachal Pradesh General Industries Corporation Limited have made a provision for the carry forward/ unspent amount to the extent of ₹84.04 lakh during 2015-19 and ₹11.00 lakh (during 2017-18) respectively. This is in contravention to the GN on Accounting for CSR.

In the reply (June 2021), Himachal Pradesh State Industrial Development Corporation Limited had partially accepted the observation and stated that after discussion, if required the necessary corrective action to be taken in subsequent financial statements. Himachal Pradesh General Industries Corporation Limited in its reply (June 2021) had accepted the observation and assured compliance in future.

5.5.3 Project Implementation

5.5.3.1 Selection of CSR projects/activities

Conduct of Base line survey and assessment: None of the three SPSEs (Other than Power Sector) conducted any separate baseline survey.

The Himachal Pradesh State Industrial Development Corporation Limited and Himachal Pradesh General Industries Corporation Limited stated (June 2021) that the audit observation shall be duly considered for subsequent year with consultation and approval of CSR committee/BoD.

5.5.3.2 Manner of implementation of CSR activities

Rule 4 of Companies (CSR) Rules, 2014 deals with the manner in which the CSR activity is to be undertaken under section 135(1). Manner of implementation of CSR activities by the SPSEs were as follows:

- Direct/In-house: Two projects of ₹7.52 lakh were implemented directly/ In-house by SPSEs (₹7.18 lakh and ₹0.34 lakh by Himachal Pradesh State Civil Supplies Corporation Limited and Himachal Pradesh State Industrial Development Corporation Limited respectively).
- Through external Agencies: Eight Projects of ₹60.95 lakh (₹60.70 lakh and ₹0.25 lakh by Himachal Pradesh State Civil Supplies Corporation Limited and Himachal Pradesh State Industrial Development Corporation Limited respectively) were being executed through Government/ External Agencies.

5.5.3.3 Focus areas

Out of total expenditure of ₹221.12 lakh towards CSR during 2015-16 to 2019-20, the maximum focus was received by Rural Development (₹45.89 lakh), Sports (₹14.15 lakh), Eradicating Hunger (₹7.18 lakh), Educational and Skill Development (₹1.50 lakh), contribution towards Chief Minister's Relief Fund for COVID 19 (₹1.50 crore) and donations/assistance (₹2.40 lakh). No amount was spent under other heads by the eligible SPSEs during this period.

Himachal Pradesh State Industrial Development Corporation Limited in its reply (June 2021) stated that the amount contributed towards Chief Minister relief fund were utilised by the State Government towards various focus areas as enumerated under CSR Policy. The reply of the Himachal Pradesh State Industrial Development Corporation Limited is not acceptable as contribution towards CM relief fund was not admissible under CSR policy, whereas Himachal Pradesh General Industries Corporation Limited in its reply (June 2021) stated that efforts will be made to spent CSR funds as per schedule VII of the Companies Act, 2013.

5.5.3.4 Local areas

Section 135 (5) of the Act provides that the Company shall give preference to the local area and areas where it operates for spending the amount earmarked for CSR activities. All the four SPSEs did not define local area in the policy. As per the prescribed format for reporting on CSR, the amount spent in local and other areas need to be shown separately. These SPSEs did not specify the local area in the Annual Report on CSR.

Himachal Pradesh General Industries Corporation Limited in its reply (June 2021) assured to comply with requirement of provisions in subsequent years whereas the Himachal Pradesh State Industrial Development Corporation Limited in reply (June 2021) stated that the State of Himachal Pradesh is a small State with small geographical area and low population density, hence, it may not be appropriate to

concentrate only on a specified local area for the contribution towards CSR. The reply is not tenable and in contravention of *ibid* section of the Companies Act, 2013, as such the Company should have identified the local areas where it operates business for spending the amount CSR funds earmarked.

5.5.4 Findings on CSR activities undertaken by SPSEs

5.5.4.1 Inadequate expenditure incurred towards CSR

The three SPSEs (Other than Power Sector) which were eligible to spend expenditure towards CSR have not incurred expenditure as per CSR policy. The SPSEs-wise detail of expenditure to be incurred and actual incurred for the period from 2014-15 to 2019-20 is given in **Table-5.3** below:

Table-5.3: Showing the detail of expenditure incurred and to be incurred towards CSR activities by SPSEs during the period 2014-15 to 2019-20.

(₹ in lakh)			
Name of SPSEs	Expenditure to be incurred	Expenditure actually incurred	Excess (+)/Under (-) expenditure towards CSR
HPSCSC	45.63	68.88	(+)23.25
HPSIDC	127.55	77.24	(-) 50.31
HPGIC	89.01	75.00	(-) 14.01
Total	262.19	221.12	(-) 41.07

It would be seen from above that two SPSEs incurred lesser expenditure (by ₹64.32 lakh) against the expenditure to be incurred and one SPSE had incurred more expenditure by ₹23.25 lakh towards CSR activities as required as per CSR policy during 2014-20.

In reply, the Himachal Pradesh State Industrial Development Corporation Limited has stated (June 2021) that the Company had contributed excess amount under CSR activities. The reply is not acceptable as contribution made by the Company towards Chief Minister Relief Fund was not admissible as CSR expenditure.

5.5.4.2 Inadmissible expenditure under CSR activity

As per provisions of Section 135, schedule VII of Companies Act, 2013 and CSR Rules, 2014 the financial assistance/ grant cannot be given under CSR except to be spent on the specific activities as mentioned under the said schedule.

Audit observed that the Himachal Pradesh State Civil Supplies Corporation Limited donated an amount of ₹1.00 lakh (June 2016) to Asha Kiran Viklang Shiksha Samiti, Bilaspur and Himachal Pradesh State Industrial Development Corporation Limited donated ₹1.00 lakh (July 2017) to Red Cross Society and ₹0.40 lakh (January 2020) to Go-Sadan, Majhwar, district Mandi which were also not eligible under CSR activities. Thus, the expenditure incurred by two SPSEs was ₹2.40 lakh during 2016-20, which was inadmissible.

5.5.4.3 Non receipt of utilisation certificate

Himachal Pradesh State Civil Supplies Corporation Limited and Himachal Pradesh State Industrial Development Corporation Limited have provided an advance of ₹43.99 lakh to external agencies for execution of nine projects (Himachal Pradesh State Civil Supplies Corporation Limited -eight and Himachal Pradesh State Industrial Development Corporation Limited -one), but utilisation certificates for the works executed were not received/obtained from the concerned agencies. In absence of utilisation certificate, it could not be ensured that the advance provided was utilized for the intended purpose.

5.5.4.4 Expenditure without approval of CSR Committee/CSR Policy

- (i) Himachal Pradesh State Civil Supplies Corporation Limited had provided (June 2018) an advance of ₹0.15 lakh to General Secretary, Sports and Cultural Club, Mandi and Himachal Pradesh State Industrial Development Corporation Limited had incurred an expenditure of ₹1.50 lakh (2016-18) without the approval/constitution/ existence of CSR Committee/BoDs.
- (ii) Himachal Pradesh State Civil Supplies Corporation Limited incurred an expenditure of ₹29.59 lakh on five projects without approval of the CSR Committee.

5.5.5 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 Company.

Audit observed that out of four SPSEs (Himachal Pradesh State Electricity Board Limited did not formulate policy), one SPSE (Himachal Pradesh Power Corporation Limited) did not specify the monitoring mechanism in the policy. In respect of other three SPSEs⁷⁴ (Other than Power Sector) as per policy, minimum two CSR meetings were required to be held every year, but no CSR meeting was held by these SPSEs during 2018-19 and one meeting was held by Himachal Pradesh State Industrial Development Corporation Limited and Himachal Pradesh General Industries Corporation Limited during the year 2019-20.

5.5.6 Reporting and Disclosure

As per Section 135 (2) and (4) read with section 134 (3) (o) of the Act, a Company is required to include an annual report on CSR in their Board Report and place it on the official website, if any, in such manner as may be prescribed. The companies have to disclose the following in the prescribed format:

⁷⁴ Himachal Pradesh State Industrial Development Corporation Limited, Himachal Pradesh General Industries Corporation Limited and Himachal Pradesh State Civil Supplies Corporation Limited.

1. Disclose contents of CSR policy, web link of CSR policy, average net profit, composition of CSR Committee, administration 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.

Audit observed that Himachal Pradesh State Civil Supplies Corporation Limited and Himachal Pradesh General Industries Corporation Limited did not disclose annual report on CSR in their Board Report and no SPSEs placed it on the official website.

Conclusion

None of the SPSEs strictly complied with the provisions of the Act and CSR Rules. Himachal Pradesh State Industrial Development Corporation Limited and Himachal Pradesh General Industries Corporation Limited constituted CSR Committee in June 2016 and July 2018 and formulated CSR policy in June 2016 and September 2018 respectively. CSR Committee was not in existence in Himachal Pradesh State Civil Supplies Corporation Limited from September 2018 to December 2020, however, it was reconstituted (January 2021). Himachal Pradesh State Electricity Board Limited did not frame its CSR policy so far. The three profit making SPSEs (Himachal Pradesh State Civil Supplies Corporation Limited, Himachal Pradesh State Industrial Development Corporation Limited and Himachal Pradesh General Industries Corporation Limited) did not prepare any annual CSR plan. Against the required expenditure of ₹262.19 lakh towards CSR activities by three SPSEs, only ₹221.12 lakh was incurred, during 2014-20.

One SPSE (Himachal Pradesh Power Corporation Limited) did not specify the monitoring mechanism in the Policy. As per policy, all three SPSEs (Himachal Pradesh State Industrial Development Corporation Limited, Himachal Pradesh General Industries Corporation Limited and Himachal Pradesh State Civil Supplies Corporation Limited) were required to hold minimum two CSR meetings in each year, however, no CSR meeting was held by these SPSEs during 2018-19 and one meeting was held by Himachal Pradesh State Industrial Development Corporation Limited and Himachal Pradesh General Industries Corporation Limited during 2019-20. The independent director also did not attend three meetings, out of total six numbers of meetings held by Himachal Pradesh State Civil Supplies Corporation Limited during 2014-18.

Recommendations

- *Profit making SPSEs may prepare annual budget and CSR plan, so funds allotted towards CSR could be utilized accordingly during the financial year.*
- *All SPSEs should make efforts to spend two per cent of average net profits of preceding three years towards admissible activities.*