

Implementing CSR Accounting & Taxation



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Shared at

IICA - E-MDP on Governance of CSR Initiatives

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CSR



ACCOUNTING – AS ON DATE

- ✖ **2nd Proviso to S. 135(5) - If the company fails to spend such amount, the Board shall, in its report specify the reasons for not spending the amount.**
- ✖ **If amount unspent**
 - + **Disclose in Board Report**
 - + **Provision legally not required..... i.e. optional**

ACCOUNTING - PROPOSED

- ✖ **2nd Proviso to S. 135(5) [inserted by Companies (Amendment) Act 2019, however yet to be made effective] -
....and, unless unspent amount relates to any ongoing project referred to in u/s 135(6), transfer such unspent amount to a Fund specified in Schedule VII, within a period of 6 months of the expiry of FY.**
- ✖ **When made effective – provision required for unspent amount.**

ACCOUNTING - PROPOSED

- ✖ **S. 135(6) - [inserted by Companies (Amendment) Act 2019, however yet to be made effective]**
- ✖ **Any amount remaining unspent u/s 135(5), pursuant to any ongoing project, shall be transferred within 30 days from the end of the FY to a special a/c to be opened in that behalf for that FY in any scheduled bank to be called the Unspent CSR A/c**

ACCOUNTING - PROPOSED

- ✖ S. 135(6) - **[inserted ...]**
- ✖ Such amount shall be spent in pursuance of its obligation towards the CSR Policy within 3 FYs from the date of such transfer, failing which - transfer to a Fund specified in Schedule VII, within 30 days from the date of completion of 3rd FY.
- ✖ When made effective – provision required for unspent amount.

ACCOUNTING - PROPOSED

- ✖ **3rd Proviso to S. 135(5) [TO BE inserted by Companies (Amendment) Bill 2020]**
- ✖ **If company spends an amount in excess - may set off such excess amount against the requirement to spend in such number of succeeding FYs and in such manner, as may be prescribed**
- ✖ **Take care of S. 181 limits . NP.. Not defined**
- ✖ **When made effective – asset recognition for excess amount spent.**

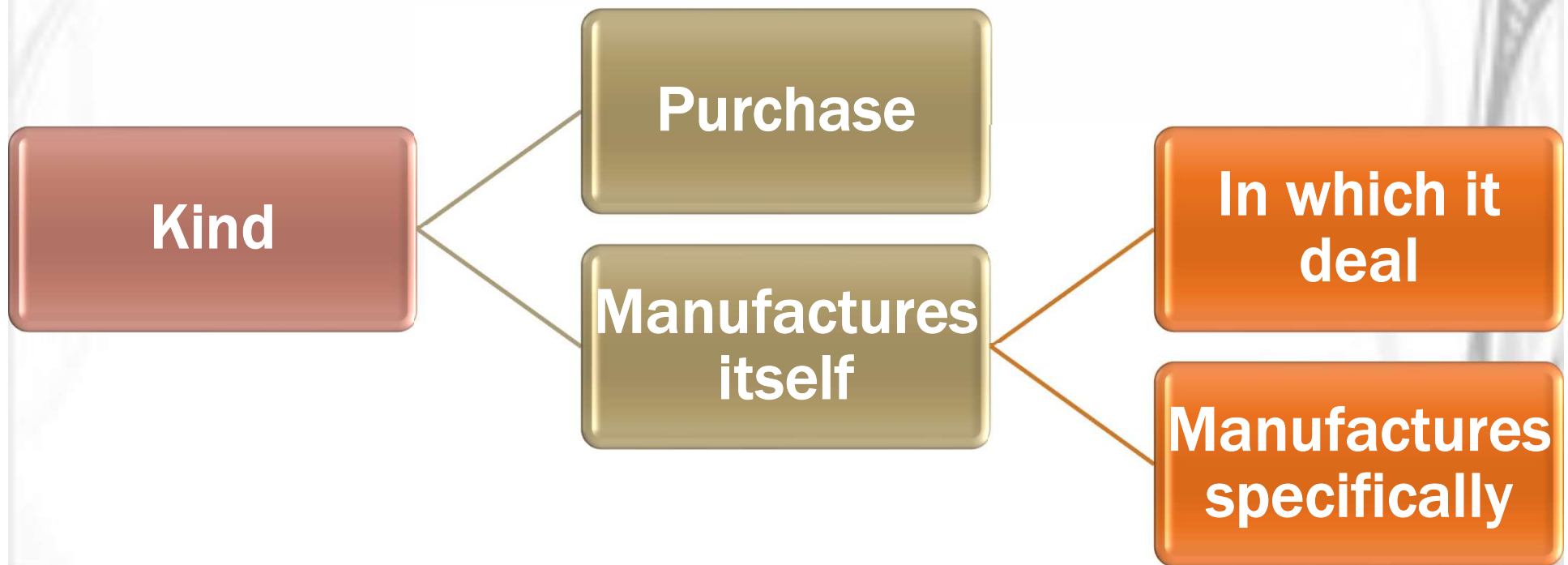
PROPOSED – NOT ONGOING

Year	To be spent (Rs. In Crs)	Actual spent (Rs. In Crs)	C/F (Rs. In Crs)	Trf to Fund in 6 months from end of FY (Rs. In Crs)
2020-21	4	3	Nil	1
2021-22	3	4	1	Nil
2022-23	5	3	Nil	1

CSR IN KIND

- ✖ **Allowed or not?**
- ✖ **Q. No. 18 of FAQs issued by MCA - company will have to spend the amount**
- ✖ **Rule 4(1) of Companies (CSR Policy) Rules 2014 - activities undertaken in the normal course of business is not eligible for CSR expenditure**

CSR IN KIND



CSR IN KIND

- ✖ **A company acquires / purchases goods, etc. and distributes / uses the same in its CSR project?**
 - ✖ **Allowed under current CSR provisions**
- ✖ **A company manufacturing / dealing in goods or services distributes those goods / services itself free of charge as CSR spend?**
 - ✖ **Currently Not in view of Rule 4(1)**
 - ✖ **However, in Mohd. Ahmed (Minor) vs. UOI & Ors dt 17.4.2014, MCA gave an affidavit that when a pharma Co. donates medicine to hospital... it is CSR**

CSR IN KIND

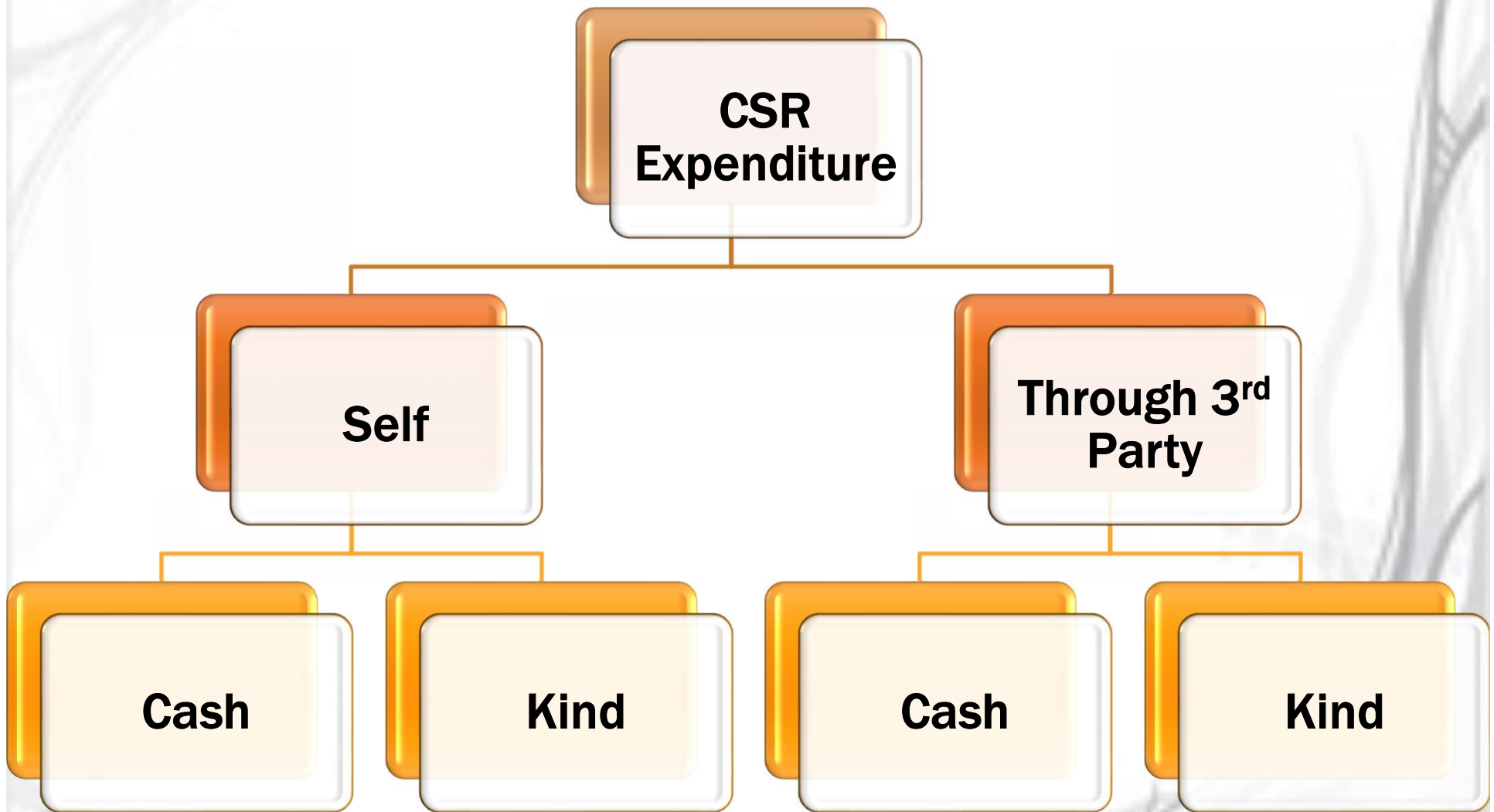
- ✖ A company is in manufacturing of steel rods
- ✖ It manufactures steel beds for medical use?
- ✖ If these beds are sold (irrespective of cost incurred) ?

+Not a CSR spend.

- ✖ If give it free of charge?

+Would be a CSR spend as it would not be an activity undertaken in the normal course of business

ACCOUNTING



ACCOUNTING

- ✖ Cash – Separate head in CSR Expenditure
- ✖ Kind - Value of the goods distributed free of charge - measure at lower of cost and net realisable value as per AS-2 / Ind AS 2:
 - ✖ Reduce from Consumption / purchase
 - ✖ Reduce stocks
 - ✖ Entry would be:
 - ✖ CSR Expenditure Dr
 - ✖ To Purchase / Cost of Goods Consumed

INCOME FROM CSR ACTIVITIES

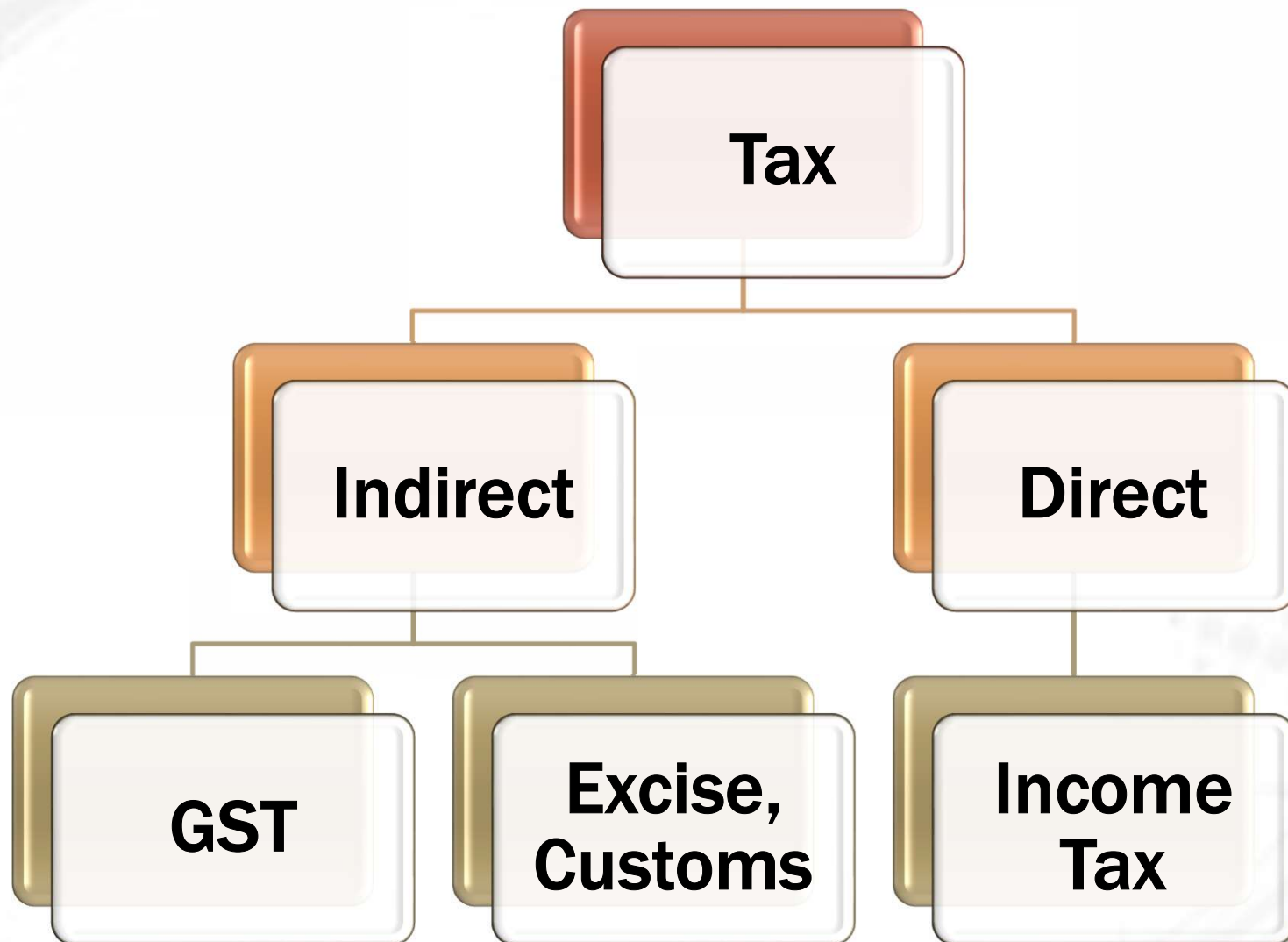
- ✖ **Rule 6(2) - CSR Policy of company shall specify that the surplus arising out of the CSR projects or programs or activities shall not form part of the business profit of a company.**
- ✖ **Required to spend Rs. 2 crores**
- ✖ **Earn Rs. 1 Lac from sale of scrap**
- ✖ **GST / TDS???**
- ✖ **Would depend on who implements CSR.**

INCOME FROM CSR ACTIVITIES

- ✖ **Framework for Prep. & Presen. of FS, defines income-increase in economic benefits dur. a/cing period in form of inflows or enhancements of assets or decreases of liab. that result in increases in equity, other than those relating to contributions from equity participants**
- ✖ **Surplus arising out of CSR - Recognise in PL**
- ✖ **It can not be a part of business profits ..recognise as liability for CSR expenditure in B/S and recognise as a charge to PL**
- ✖ **Would not form part of 2%**

CSR





EXPENDITURE DISALLOWANCE

- Explanation 2 to S. 37(1) - For removal of doubts, it is hereby declared that for the purposes of sub-section (1), any **expenditure** incurred by an assessee on activities **relating to CSR** referred to in s. 135 of Companies Act, 2013 **shall not be deemed to be an expenditure incurred by the assessee for purposes of business or profession.**

INCOME TAX

- **S. 37(1) - Any expenditure (not being expenditure of the nature described in s. 30 to 36 and not being in nature of capital expenditure or personal expenses of the assessee), laid out or expended wholly and exclusively for the purposes of business or profession shall be allowed in computing income chargeable under head "PGBP".**
- **Are expenditures u/ss 30 to 36 allowed??**

INCOME TAX

- **S. 30 - Rent, Rates, Taxes, Repairs and Insurance for buildings**
 - In respect of rent, rates, taxes, repairs & insurance for premises, **used for the purposes of business or profession,**
- **S. 31 - Repairs and Insurance of Machinery, Plant and Furniture**
 - In respect of repairs and insurance of machinery, plant or furniture **used for the purposes of the business or profession, ...**

INCOME TAX

✖ S. 32 - Depreciation

- + In respect of depreciation of (i) buildings, machinery, plant or furniture, being tangible assets... owned, wholly or partly, by the assessee, **used for the purposes of business or profession,**

■ S. 36 – Other Deductions

- Insurance premium for stocks, interest....**for the purposes of the business or profession, ...**

INCOME TAX

- **S. 36 – Other Deductions**
 - Related to employees...
 - (ix) any expenditure bona fide incurred by a company for the purpose of promoting family planning amongst its employees....
- **Rule 4(5) - CSR projects or programs or activities that benefit only the employees of the company and their families shall not be considered as CSR activities**

INCOME TAX

- **S. 35 (1)(ii) - Undertaking scientific research - an approved Research Association / University**
- **S. 35 (1)(iii) - Undertaking research in social science or statistical research. - Approved Research Association /university, college or other institution**

INCOME TAX

- **S. 35CCA - For implementing programs of rural development as approved by the prescribed authority by an Association / Institution which has as its object of undertaking any program of rural development or training of persons OR Any sum paid to prescribed funds as notified by the Central Govt**

INCOME TAX

- **S. 35CCD r.w. Rule 6AAF to 6 AAH - Any expenditure incurred (not being used for the acquisition of land or building or construction of building) on any skill development by an eligible company on any skill development project notified by the Board**

INCOME TAX

SECTION	PAID TO/INCURRED	PURPOSE
35CCC	Agricultural Extension Project notified by the Board	Any expenditure incurred on agricultural extension
35(2AA)	National Laboratory, University or an IIT or a specified person	Scientific research undertaken on an approved program approved by prescribed authority
35(i)(iii)	Approved Research Association / university, college or other institution	Undertaking research in social science or statistical research.
35(1)(ii)	An approved Research Association / University	Undertaking scientific research

SALARIES

- ✖ **Allowed u/s 37.. If for business**
- ✖ **Rule 4(6) - Companies may build CSR capacities of their own personnelbut such expenditure including expenditure on administrative overheads, shall not exceed 5% of total CSR expenditure of company**
- ✖ **FAQ - Salaries paid to regular CSR staff / volunteers of co. (in proportion to co.'s time spent specifically on CSR) can be factored into CSR project cost as part of CSR exp.**

DONATIONS

- ✖ **FAQ - One-off events such as marathons/ awards/ charitable contribution/ advertisement/ sponsorships of TV programmes etc. - not CSR expenditure**
- ✖ **Has to be for a project / activity?**
- ✖ **Deduction u/s 80G?**

SPECIFIC FUNDS – SCH VII

- ✖ (viii) **Contribution** to the PM's National relief fund or any other fund set up by central govt. for socio-economic development & relief.
- ✖ PM CARES Fund included therein through clarification by MCA vide Office Memorandum dt. 28.3.2020 - in Schedule VII (viii)
- ✖ **S. 80G(2)(a)(iiia)**

SPECIFIC FUNDS – SCH VII

- ✖ (i)**Contribution** to the Swachh Bharat Kosh set-up by the Central Government for the promotion of sanitation (inserted w.e.f. 24.10.2014)
- ✖ **S. 80G(2)(a) (iihk)** - Swachh Bharat Kosh, set up by the CG, **other than** the sum spent by the assessee in pursuance **of CSR u/s 135(5)** of Companies Act, 2013

SPECIFIC FUNDS – SCH VII

- ✗ (iv)**Contribution** to the Clean Ganga Fund set-up by the Central Government for rejuvenation of river Ganga (inserted w.e.f. 24.10.2014)
- ✗ **S. 80G(2)(a) (iihl)** - Clean Ganga Fund, set up by CG, where such assessee is a resident & such sum is **other than** the sum spent by assessee in pursuance of **CSR u/s 135(5)** of Companies Act, 2013

SPECIFIC FUNDS – SCH VII

✖ (ix) **Contribution** to:

- + Incubators funded by CG or SG or any agency or PSU of CG or SG
- + Public funded Universities,
- + IITs,
- + National Laboratories & Autonomous Bodies (established under auspices of ICAR, ICMR, CSIR, DAE, DRDO, DBT, DST, Ministry of Electronics & IT) engaged in conducting research in science, technology, engineering & medicine aimed at promoting SDGs

DONATION TO OTHERS

✕ S. 80G(5) read with S. 80G(2)(a)(iv) :

+ Contribution

✕ If as per Schedule VII (ix)

✕ Others – only for project

✱ Total 12 activities.. Out of which only 4 contributions

✱ Out of 4 only against 2 can get 80G benefit

✱ Rest has to be activities / projects

FAQ BY MCA

- ✖ **FAQ No. 6 of General Cir. No. 01/2016 dt. 12.1.2016**
- + **No specific tax exemption has been extended to CSR Expenditure per se.**
- + **Finance Act 2014 also clarifies that exp. on CSR does not form part of business exp.**
- + **Several activities like PM's relief Fund Scientific Research, rural development projects, skill development projects, etc which find place in Schedule VII, **already enjoy exemptions under different sections of Income Tax Act****

TAX BENEFIT OPTIONS UNDER CSR

TAX DEDUCTION	
NIL	If the company directly undertake CSR Expenditures
50% - 100%	If the company undertakes CSR Expenditures through 80G registered NGOs (including its own foundation)
100%	If the company undertakes CSR Expenditures through institution/project registered u/s. 35CCA, 35(i)(iii),
More than 100% (100 – 150%)	If the company undertakes CSR Expenditures through institution/project registered u/s. 35(2AA), 35CCC, 35CCD, 35(1)(ii)

If we go for the tax efficiency then the option of choosing the programs from Schedule-VII shall reduce comprehensively

CSR & MAT

- ✖ **CSR is charged against income as an expense in statement of Profit & Loss, hence, it results in lesser Book Profit subject to MAT**
- ✖ **CSR expenditure being an expense in statement of Profit & Loss reduces the quantum of CSR expenditure to be spent.**

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THANKS



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