

Corporate Social Responsibility (CSR) – GST & Income Tax Impact & Interplay



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Section 17(5)(fa) proposed –

"(fa) goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013;"

1. Explanation 2 to Section 37(1) -

Explanation 2.-For the removal of doubts, it is hereby declared that for the purposes of sub-section (1), any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 (18 of 2013) shall not be deemed to be an expenditure incurred by the assessee for the purposes of the business or profession.

2. However CSR Expenditure continues to be allowed u/s 30 to Sec 36 of The Income Tax Act

3. Some tax authorities have **also disputed the claim of deduction under Section 80G** for eligible donations, qualifying for CSR expenditure on the grounds that CSR spend is not 'voluntary', but 'mandatory' in Nature, whereas **80G deduction should be allowed in a case of 'voluntary' payment.** Also that **the intention of the legislature was never to allow deduction for CSR expenditure**, else it would result in subsidising the CSR expenditure by one-third amount.

Taxpayer's defence in this respect is on the doctrine of "**Expressio Unius Est Exclusio Alterius**", a Latin phrase, "express mention of one thing excludes all others".

4. The arguments of the assessee has been accepted in a recent case of **MARSH MCLENNAN GLOBAL SERVICES INDIA PRIVATE LIMITED Vs ASSESSMENT UNIT, INCOME TAX DEPARTMENT [2023-VIL-81-ITAT-MUM]**

1. CSR Expenses are not allowed from 1.4.2015 u/s 37 of IT Act
2. CSR Expenses are still allowed u/s 30 to Sec 36 of IT Act
3. CSR Expenses can be claimed u/s 80G of IT Act
4. ITC on CSR expenditure made by companies u/s 135 of Companies Act 2013 can be claimed until the date of effect of Sec 17(5)(fa)
5. ITC on CSR expenditure made by companies u/s 135 of Companies Act 2013 cannot be claimed from the date of effect of Sec 17(5)(fa)
6. ITC on CSR expenditure made by taxpayers not u/s 135 of Companies Act 2013 can be claimed

This information in this PPT is just for education purpose. For taking decisions, the Law should be referred to and professional help may be sought

THANK YOU



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