**‘Clear air on tax treatment of CSR spend’**

India Inc says no provision in I-T law or specific guidance from the Central Board of Direct Taxes

Corporate India wants the income-tax law to be clarified upfront so that their corporate social responsibility (CSR) spend is eligible for tax deduction from April 1, 2014, when the new CSR framework comes into force.

There is no explicit provision in the income-tax law or specific guidance from the Central Board of Direct Taxes (CBDT) on tax treatment of CSR spends by corporates, Siddharth Birla, President of FICCI, told *Business Line.*

All eyes are now on the Finance Ministry — especially the CBDT— to provide clarity on tax treatment of CSR contributions. “The income tax law needs to be clarified to prevent taxman from treating CSR spends as an appropriation,” Birla said.

If treated as an appropriation of profits and not as a charge to profits, the taxman could disallow corporate claims of such spend as deductible expenditure. This would add to the tax bill of corporates making such CSR spends, he pointed out.

While the Ministry has come up with framework, the tax treatment of CSR contribution is still not clear, say experts.

“The tax treatment of CSR contribution is not clear, as nothing is specifically provided in this regard, so whether or not CSR contribution will be deductible as a business expenditure is still debatable,” Lalit Kumar, Partner, J Sagar Associates, a law firm, said. Aseem Chawla, Partner, MPC Legal, said the lack of clarity on tax treatment of CSR spend is another illustration where two statutes equally applicable to a company do not provide a complete guidance to corporate India. There have been so many previous instances where a company has been left in disarray with regard to treatment under two equally applicable statutes.

Dolphy D Souza, Senior Partner, S R Batliboi & Co, also said the new rules do not provide any clarity on tax deduction for CSR spend, which essentially has to come from the CBDT.

**Qualifying expenditure**

According to the rules, the qualifying expenditure does not include any spend incurred in the normal course of business.

Under Section 37(1) of the income-tax law, expenditure is deductible only if incurred for the purposes of business.

Therefore, there is an inherent conflict in what the rules require the company to spend, and the deduction allowed under the income-tax law, according to D’Souza.

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