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**Legally positioning Corporate Social Responsibility under
Indian Tax Law: A Case Study**

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Abstract:

Indian Companies Act, 2013 introduced mandatory corporate social responsibility (CSR) concept, which is premised on stakeholder theory. This obligation has to be fulfilled by only those companies who meets the threshold limit in terms of either assets, or turnover, or net profits, for three consecutive financial years. A Finance Act, 2014 was passed clarifying vide Explanation to Section 37 of the Indian Income Tax Act (IT Act), 1961, which supplements Section 135 of the Companies Act, 2013 stating that CSR spending is not a business expenditure. This impacts CSR spending to be excluded from deducted as business expense. This explanation triggered criticism and misinterpretation as companies started considering CSR spending as eligible to be deducted under Section 37 of the IT Act or as a voluntary contribution under Section 80 G of the IT Act, 1961. This case study also reveals the dichotomy faced by companies which is duty-bound to adapt to a mandatory statutory compliance requirement. Authors also attempt (i) to discuss pre and post mandatory CSR obligation regime, (ii) study two companies' strategy to club CSR obligation with tax deduction measures, and (iii) the response of the judiciary to make companies adhere to CSR spending as social responsibility than as a means of tax evasion.



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