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Ref.No.MAIT/PY/2481

May 20, 2022

Shri Inderdeep Singh Dhariwal
Joint Secretary
Ministry of Corporate Affairs

Sub: Regarding clarification on Unspent CSR fund balance of preceding Financial Years (2014-15 to 2019-20)

Ref:

1. Companies (Amendment) Act, 2019
2. Notification: Jan 22, 2021 [F.No.1/5/2019-CL.I] –Commencement of Companies (Amendment) Act, 2019

Respected Sir,

Greetings from MAIT!

Established in 1982, MAIT is the apex industry body representing the Electronic H/W sector in India. A not-for-profit body, MAIT closely works with policy makers of Central and State Government to enable the growth of the Electronic System H/W Design & Manufacturing sector in India. MAIT's members include Large & MSME Companies and Industries from the domain of OEMs, ODMs, EMS, Design Houses, Recyclers, PROs, Testing Laboratories and Sub-sectoral Associations.

I am writing to you with reference to the Ministry of Corporate Affairs notifications (as mentioned in Ref: 1 to 2 above), seeking clarification on issues on behalf of the Electronics Industry as mentioned below:

- A. Companies (Amendment) Act, 2019 was notified on The Gazette of India dt. July 31, 2019 which covers amendment of Section 135 vide clause no 21. As per this notification the effective date of this amendment was to be notified later. Copy of the same appended in Annexure 1.
 - Since no clarity on effective date of The Companies Amendment Act 2019 was available, Companies have to make provisions for CSR unspent funds in the books of accounts for the FY 2014-15 to FY 2019-20. Financial Accounts for the aforesaid financial years bear the note of such provision.
- B. The effective date of Clause 21 of Companies (Amendment) Act, 2019 was notified on Jan 22, 2021 and commencement from the notified date i.e FY 2020-21. Copy appended in Annexure 2. However, there was no further clarity on unspent fund balance of previous years was provided by Ministry of Corporate Affairs.
- C. Basis the provisions created for unspent CSR funds, companies opened separate bank account and transferred unspent CSR fund balance for financial year 2014-15 to 2019-20 in April 2021 to comply to the CSR rules.

D. General Circular No. 14 /2021 was notified on Aug 25, 2021. Copy appended in Annexure 3. Under FAQ no 7.7 of this circular, question Is the unspent amount of previous financial years also required to be transferred to the Unspent CSR Account? The answer to this question provided as “No, the provisions related to ongoing projects have come into effect from 22nd January 2021, i.e., from FY 2020-21 onwards. The said provisions are prospective in effect and not applicable to projects of previous financial years. Further, the Board of the company is free to decide the treatment of the unspent CSR amount of previous financial years prior to FY 2020-21. The Board can either transfer the amount to ‘Unspent CSR Account’ or continue as per the previous accounting practices adopted by the company.

- With respect to the above circular, Ministry of corporate Affairs has clarified that the treatment of unspent CSR funds will be prospective i.e., from FY 2020-21 onwards and The **Board of the Company can take the decision** on the unspent CSR funds of previous years.

Clarification sought on CSR unspent fund balance of preceding financial years (from FY 2014-15 to FY 2019-20):

- We request your good office to kindly help the industry with a clarification (in compliance to the applicable rules as notified) that “Board of the Company is free to take decision on the unspent CSR fund balance prior to FY 2020-21”. Kindly provide specific guidance on the unspent CSR fund balance of preceding financial years i.e., FY 2014-15 to FY 2019-20, on whether this can be written back as the same has been provisioned for expenses under CSR in the books of account.

Look forward to your continued support and guidance.

With regards,



George Paul
CEO

Enclosures:

1. Annexure 1: Companies (Amendment) Act, 2019
2. Annexure 2: Commencement Notification CAA 2019