



CONTRIBUTION TO PM CARES FUND AN ELIGIBLE CSR ACTIVITY

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The world is coming together to combat the COVID-19 pandemic bringing governments, organizations from across industries and sectors and individuals together to help respond to this global outbreak. Government of India (GOI) is taking all necessary steps to ensure that we are prepared well to face the challenge and threat posed by the growing pandemic of COVID-19. As this outbreak evolves, funding requirements to fight this pandemic requires that the GOI & Corporates to pool its resources to make a meaning full impact. GOI has set up the Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES Fund) with the primary objective of dealing with any kind of emergency or distress situation such as that posed by COVID-19 pandemic. Few points to be considered by the Corporates with respect to the contribution to PM CARE Fund are as follows:

- ❖ The Government has clarified that any contribution to the fund shall be treated as CSR expenditure. *As per the MCA Clarification dated, 28th March, 2020, any contribution made to the PM CARES Fund shall qualify as Corporate Social Responsibility (CSR) expenditure under Section 135 of the Companies Act, 2013.*
- ❖ Various State Governments have also set up Chief Minister Relief Fund for combating the COVID-19 situation in their respective States. Any contribution directly to the Chief Minister Relief Fund set up by the State Government **will not qualify** as CSR expenditure.
- ❖ As per Schedule VII “any contribution to the prime minister's national relief fund or *any other fund set up by the Central Government* for socio economic development and relief and welfare of the schedule caste, tribes, other backward classes, minorities and women”. As the Chief Minister Relief Fund is set up the State Government and not Central Government any contribution directly to the Chief Minister Relief Fund will not qualify as CSR Expenditure.
- ❖ It is advisable to contribute to Chief Minister Relief Fund be made through **a Section 8 Company** or through a **registered trust or a registered society** in order to qualify the same as CSR Expenditure.
- ❖ In case of Companies having inadequate profits and do not qualify for CSR they can make a donation to the *PM CARES Fund or the Chief Minister Relief Fund*. The approval of the shareholders u/s 181 of the Companies Act, 2013 can be taken in the ensuing Annual General Meeting for donation made in case the amount is in excess of 5% of its profits. Even though the section states prior approval, in view of the lockdown and the emergency situation in the Country we are of the opinion

that an post facto approval will not be held as non-compliance as long as the amount has been given to the **PM CARES fund** or the **Chief Minister Relief Fund**.

Disclaimer: This note has been prepared for general guidance on matters of interest only, and does not constitute a professional advice.
