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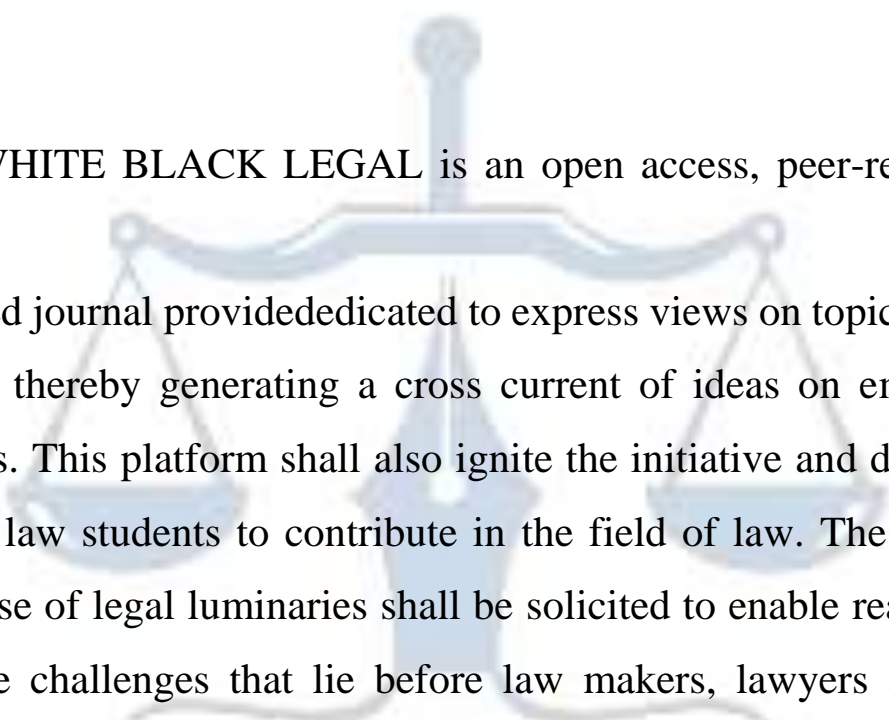


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ABOUT US



WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

**“ROLE OF CSR AND BUSINESS ETHICS IN TERMS
OF CORPORATE GOVERNANCE: CRITICAL
ANALYSIS IN RELATION TO CORONAVIRUS
(COVID-19)”**

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ABSTRACT

Earlier, corporation took a step back during crises. However, from the last few years perception among enterprises have changed, entities started using the concept of CSR, BE & CG in their businesses. This paper will evolve around the concept of CSR, BE & CG. This paper investigates the role played by the CSR and business ethics in corporate governance and how it can bring about business growth and expansion. The expected contributions of this work will be to see the visibility of CSR, BE & CG in the times of crisis i.e. “COVID-19 pandemic”, which is going on presently and how this has influenced the growth of businesses during this unprecedented time.

In the paper inter-relationship between CSR, BE & CG will be discussed for better understanding of the concept. This paper has emphasis on legal provision and various acts of law which are related to CSR, BE & CG in any way. Paper have also covered the purposes, objectives and outcomes of CSR, BE & CG and includes the legal framework used during “COVID-19 pandemic” by the entities.

Keywords: CSR, Business ethics, Corporate Governance, COVID-19, Entities, Pandemic, Companies, Stakeholders.

INTRODUCTION

The word CSR, Business Ethics and Corporate Governance relates to the principle of transparency and how it handles the effect on customers of its operations, takes responsibility toward stakeholders and having a positive impact on society. Usually a key feature of the concept is how companies engage / involve shareholders, employees, customers, suppliers, government, nongovernmental organizations, international organizations, and other stakeholders.

There is now an increasing belief among companies and organizations that sustainable business performance and shareholder value cannot be accomplished by optimizing, a short-term benefit, but rather by market-oriented and responsible conduct. CSR funds are used to provide income relief to employees who are losing their jobs as a result of pandemic shutdowns. There is a huge role played by corporate social, responsibility, business ethics, and corporate governance in business activity.

Most institutions and firms have experienced some significant losses over the past few years and some companies have undergone liquidation and winding-up. Of this reason, in recent years, CSR, corporate governance and business ethics have become increasingly relevant. However, with the change in time, companies' interests are shifting as stakeholders become common in the developing world. Even in difficult times, companies are here to stay, through CSR practices and initiatives, and through the accomplishment of business ethics and sound corporate governance policies, organizations are using their wealth to support societies.

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CHAPTER- I

1. CORPORATE SOCIAL RESPONSIBILITY (CSR):

1.1 Background/Origin of CSR

The definition of Corporate Social Responsibility (CSR) was first implemented through the *Companies Act, 2013*, in India. India has become the precursor, with the introduction of the *Companies Act, 2013*, to mandate spend on Corporate Social Responsibility (CSR) activities through a statutory provision.¹

Provisions related to CSR has been defined under **section 135 of companies act, 2013**² and **CSR rules**³. As per this section the CSR provision becomes applicable to companies which fulfil the conditions or touches the limits as given under this section itself. India has a history of corporate philanthropy, though many corporate houses such as TATA, Godrej, Birla's have historically volunteered to do CSR activities, the new CSR provisions have made companies in India more accountable for setting out transparent CSR structure.⁴

1.2 Meaning and definition of CSR

In terms of layman, Corporate Social responsibility is a social responsibility of corporate toward those because of whom that corporate has established and working well in its field, who all are giving their precious time through working in and for the corporation; for making the corporation successful and reputed, those who are helping corporation and contributing any things in any way for the development of a corporation.

CSR has been characterized by various people giving it a varied dimension. According to *Michel Hopkins* " Corporate social responsibility includes the ethical or fair treatment of stakeholders of an organization or institution. 'Ethically or responsibly' refers to the treatment of key stakeholders in a manner considered acceptable under international standards."⁵

According to the EU commission (2002), Corporate Social Responsibility is a management philosophy by which businesses incorporate environmental and social issues into their business practices and operations and engage with their stakeholders.

¹ ICSI CS executive study material, "company law", available at: https://www.icsi.edu/media/webmodules/CompanyLaw_BOOK.pdf (last visited on May 10, 2020).

² Companies Act, 2013 (Act 18 of 2013).

³ Companies (Corporate social responsibility policy) Rules, 2014

⁴ ICSI, "company law", available at: https://www.icsi.edu/media/webmodules/CompanyLaw_BOOK.pdf (last visited on May 11, 2020)

⁵ Ankitaben D. Kathiriya, "A Study on Corporate Social Responsibility Reporting in India With Specific Focus on Accounting and Disclosure Perspectives." (2017) (Gujarat University) (last visited on May 11, 2020)

1.3 Provision related to spending of CSR

Every company who touches the limits or cross the applicability criteria or meet with conditions as mention under the provisions of companies act, 2013 need to comply with the other provisions which are relating to the spending of CSR fund for CSR activities.

The Act requires spending on CSR initiatives within the specified limits of at least 2 per cent of net income. The Board was kept responsible for ensuring that the law relating to CSR was complied with. Non-compliance with the provision must be expressed in the Board 's report.⁶

The board of every company shall ensure that the company spends, in every financial year, at least two percent of average net profits generated during the three immediately preceding financial year, in each financial year, in compliance with its corporate social responsibility policy.

1.4 Purpose of CSR

An entity is an intrinsic component of the larger social environment. In the long run, the organization's well-being relies on the society's well-being. It is the reasoning behind the Corporate Social Responsibility (CSR) philosophy, which is gaining growing acceptance among business leaders. Yet here too the philosophy and practice of CSR must go beyond isolated voluntary ventures in order to support the society as a whole.⁷

The purpose of CSR is not only to do charitable work, but to do such works that build the reputation of a business, make goodwill of a company, and most important do the development of society and economy. Even the list of activities discussed in schedule VII of companies act also focuses on the needs of society for the development of society, to fulfil that need is the responsibility of an entity toward society and this is also one of the most important purposes of CSR. To open up their hands for the help of stakeholders especially at the time of need for the same.

1.5 Scope of CSR

Corporate Social Responsibility is a philosophy whereby businesses not only recognize or consider their productivity and development but also consider the interests of society and the community by accepting or taking responsibility of their activities for the effect of their

⁶ ICSI, CS executive study material, “company law”, available at: https://www.icsi.edu/media/webmodules/CompanyLaw_BOOK.pdf (last visited on May 11, 2020)

⁷ ICSI, CS professional study material, “governance, risk management, compliances and ethics”, available at: https://www.icsi.edu/media/webmodules/GOVERNANCE_RISK_MANAGEMENT_COMPLIANCES_AND_ETHICS.pdf (last visited on May 2, 2020)

operations on stakeholders, the climate, customers, staff, communities and all people of the society in which company operates. The basic idea is that as the companies get larger, there are many other obligations attached to them that are more of a non-financial / social in nature beyond the economic duty and primary objective of earning income and generating profit.⁸

Scope of CSR is very wide, in the modern time of age and days the value of CSR has increased very rapidly, CSR is not just limited to the term of “social responsibility” but the scope of this term is enhanced; now it termed as “corporate citizenship”, "corporate conscience", "sustainable responsible business". Even during earlier times, it was used by the companies but was not so popular or known amongst the businesses, as earlier there was no law regarding this. Now there is a law regarding CSR that increased its scope and value, and make its use more popular and known among the business.

The highest aim of CSR must be to align the organization's social life with the social life of outside's environment in which organisations operate or surrounded by, CSR emphasize on harmonization of organisation's priorities with the growth goals of the community and society at large Through this wider context, the organization will share not only its resources with the society but also some of its skills or expertise.⁹ A corporate enterprise is a human being, a social institution and not just an economic body.

Fulfillment of CSR led to the fulfillment of business ethics and corporate governance, and this led to the achievement of corporate goals. Corporates are not only using their monetary thing for societal development but also use knowledge and skills with society for making it better and even best.

Among business leaders, J.R.D. Tata had a strong understanding of his obligation and of business opportunities for community growth as well. He said, "Every organization continues to have a special responsibility towards its citizens of the region it is based in. The company should spare its engineers, doctors, managers to advise the people of the villages and oversee new developments undertaken by a cooperative effort between them and the company."¹⁰

⁸ ICSI, CS professional study material, “governance, risk management, compliances and ethics”, available at: https://www.icsi.edu/media/webmodules/GOVERNANCE_RISK_MANAGEMENT_COMPLIANCES_AND_ETHICS.pdf (last visited on May 2, 2020)

⁹ ICSI, CS professional study material, “governance, risk management, compliances and ethics”, available at: https://www.icsi.edu/media/webmodules/GOVERNANCE_RISK_MANAGEMENT_COMPLIANCES_AND_ETHICS.pdf (last visited on May 2, 2020)

¹⁰ *Ibid.* at 9

CHAPTER-II

2. CORPORATE GOVERNANCE:

2.1 Background of corporate governance

Since the 1980s and even more after the code of corporate management issued by the Cadbury consulting company, the definition of corporate governance has become popular.

“In its report (Financial Dimensions of Corporate Governance, circulated in 1992) the well-known Cadbury Committee defined "corporate governance" as "the structure by which organizations are organized and regulated.”¹¹ The Kumar Mangalam Birla Committee further issued a corporate governance code for organizations in India, in accordance with the Cadbury Council. The concept of corporate governance evolved more after 1866 when companies act was amended in 1882, 1913, 1932. Soon after independence, more industries began to use the concept of corporate governance for their corporate performance.

Corporate governance was so old concept, it has been used from the times of “RAMAYANA and MAHABHARATA” even from the time earlier than that.

2.2 Meaning and definition

In layman language corporate governance means corporate management of an entity.

Noble Laureate Milton Friedman: Corporate governance is the conduct of business in accordance with the wishes or desires of shareholders, which usually involves making as much money as possible, while complying with society's basic rules enshrined in law and local customs.¹²

“Corporate governance means a set of corporate systems, processes, policies, practices and standards to ensure a transparent and honest relationship with various stakeholders and market players.”

The term "corporate governance" defines the framework of the rules, relationships, systems and processes within and through which corporate authority is exercised and regulated. It encompasses the mechanisms by which companies, business management and those in control, are held to account and responsible.¹³ The way companies management is organized and managed to ensure that all holders of financial stakes (shareholders and creditors) receive their

¹¹ Evolution of Corporate Governance in India, available at: <https://www.scconline.com/blog/post/2019/11/13/evolution-of-corporate-governance-in-india/> (last visited on May 13, 2020)

¹² Corporate Governance as defined by experts, available at: <https://www.hindustanpetroleum.com/hpclnews10> (visited on April 29, 2020)

¹³ *Supra* note 8

fair share of the earnings and assets of a company.

2.3 Scope of corporate governance

Corporate governance is the broad term used to describe the procedures, practices, policies, regulations, and structures that direct organizations and companies in their manner of acting or administering their operations. It aims to attain the organization's objective and manages the relationship between the stakeholders including the board of directors and shareholders.

The usage of corporate governance can never be lost. This concept is immortal as it's a concept that will never lose its identity and always remain in use, and being used during the lifetime of the corporation and even after the lifetime. *Corporate governance is a "Backbone" of a corporate, a corporate cannot function without the governance.*

A good and proper corporate governance makes an entity more successful and valuable. Only governance in a corporation makes employees, employers, workers, and whole staff (stakeholders) happy and satisfied them. Which is a good thing for a company as stakeholders are fully satisfied only then they work with full zeal and joy, and this thing helps in generating good profit and then that earning will be used for the benefits of stakeholders. This is a cycle in another way a continuous process, which is necessary for the companies as well as for social betterment.

2.4 Legal provisions of corporate governance

Corporate governance is not defined under any section and in any act. There is no direct provision relating to CG. CG is discussed indirectly; the legal framework of CG is provided under various laws or by independent authorities. There are various codes of conduct given under corporate-related laws and issued by independent bodies have expertise in a particular field for the implementation of governance in the companies.

In companies act, 2013 laws concerning the board meeting, AGM, constitution of the board, provisions related to independent and small shareholder director, Party transition, disclosure requirement in financial statement and, etc. **In SEBI law;** guidelines, rules and, regulations relating to CG are issued from time to time to listed companies for ensuring the protection of investors.

Accounting Standards Issued by the Institute of Chartered Accountants of India (ICAI) is an independent body, which issues accounting standards providing guidelines for disclosures of financial information. For maintaining corporate governance, companies shall fulfil the requirement relating to the affairs of the companies. "In the new Companies Act, 2013 **Section**

129 provides that the financial statements would give a fair view of the state of affairs of the companies, following the accounting standards given under *Section 133* of the Companies Act, 2013.” It is further given that the things contained in such financial statements should comply with the accounting standards.¹⁴ By following above mentioned provisions and compliances a company can implement corporate governance properly and effectively in a company.

The Institute of Company Secretaries of India (ICSI) issued Secretarial Standards the ICSI is an autonomous body with secretariat rules under the new Companies Act. The secretarial requirements are established by the Institute of Company Secretariats of India (ICSI). ICSI has issued "Board of Directors Meeting" (SS-1) and "General Meeting" (SS-2) secretariat standards. Owing to the requirements of secretariat, the 1-7-2015 date came into effect. Section 118(10) Company Act, 2013 provides for the implementation of secretarial standard as defined in ICSI in relation to the meeting of the board and the general meetings of all companies (other than the one-person company).¹⁵ Conducting meeting and meet with all standards relating to the company’s affairs led to an implementation of governance in a company.

A company that realized and satisfied all requirement under the provision of laws as mentioned above and manages to comply with the standards, can become a company which has a proper corporate governance strategy and implemented the that strategies in company for ensuring good management and governance. All these actions are needed to be taken by the companies for attainment corporate governance.

¹⁴ Evolution of Corporate Governance in India, *available at:* <https://www.scconline.com/blog/post/2019/11/13/evolution-of-corporate-governance-in-india/> (last visited on May 13, 2020).

¹⁵ Evolution of Corporate Governance in India, *available at:* <https://www.scconline.com/blog/post/2019/11/13/evolution-of-corporate-governance-in-india/> (last visited on May 13, 2020).

CHAPTER-III

3. BUSINESS ETHICS:

3.1 Background of Business ethics

The notion of business ethics started in the 1960s when companies became more conscious of an increasing consumer society that raised and showing concerns about the environment, social issues and corporate responsibility. A hallmark of the decade was the increased focus on so-called social issues.¹⁶

The definition of business ethics can be traced back to the earliest modes of commerce on the basis of the idea of equal exchange. The subject has been discussed by countless philosophers and economists, from Aristotle and his idea of justice to an assault on capitalism by Karl Marx. But the modern concept of business ethics dates back to the upsurge in the 1970s of anti-big business protest groups in the USA. With both philosophical and empirical branches, the subject gradually became an academic field in its own right. Then, thanks to government legislation, ethics was incorporated into businesses, reflected today in strategies and codes of conduct for corporate social responsibility. Business ethics is now not only a firmly established academic field, it is something companies realize they need to manage and internalize.¹⁷

3.2 Meaning and Definition of BE

In layman terms; business ethics are the set or bundle of principles and values of an entity, which govern the behavior of an organization and individual, and is a guide for the distinguishment of wrongs and rights thing.

Business ethics is the study of correct business policies and procedures, including corporate governance, insider trading, corruption, sexism, corporate social responsibility, and fiduciary obligations. The law also directs corporate ethics, but at other times business ethics offers a simple rule to be followed by companies in order to gain public approval.¹⁸

Business ethics are guiding principles for an organization and individual to do ethical practices in the business by using ethical standards.

Business Ethics: Business ethics “also referred to as corporate ethics” is a type of applied ethics or professional ethics, which discussed moral and ethical concept and principles as

¹⁶ Business Ethics, available at: <https://www.investopedia.com/terms/b/business-ethics.asp> (last visited on May 12, 2020).

¹⁷ A History of a business ethics, available at: <https://www.bbvaopenmind.com/en/articles/a-history-of-business-ethics/> (visited on May 1, 2020)

¹⁸ *Supra* note 16

well as ethical issues which may occur in a business environment.¹⁹

3.3 Purpose of business ethics

In the company's guidelines and memorandums ethical practices are mentioned which company needs to follow. There are proper rules & regulations and policies related to business ethics and its practices.

Business ethics ensures that there is a certain fundamental level of confidence among customers and various types of market players with companies.²⁰ Business ethics is meant to maintain a certain degree of trust between customers and companies, ensuring fair and equitable treatment for the general public.

3.4 Scope of Business ethics

Today, the entire corporate world is within the process of acquiring an ethical conscience. The new and emerging concepts in management like corporate governance, business sustainability and corporate responsibility are some of the expressions through which this emerging ethical instinct in the corporate world is trying to express and embody itself in the corporate life.²¹

Ethics is not just a part of corporates but it is much wider term, business ethics is an art, science, and profession. It is persuasive; business ethics is the heart of a business. Ethics is not just an earning tool but it added value in the business, this term follows the approach of forward-looking, as any company who is properly using ethics in its entity then no one can stop that entity from becoming successful and will survive in long run.

Business ethics goes beyond just a moral code of right and wrong; it seeks to resolve what firms are expected to do legally in order to retain a competitive advantage over other corporations. Firms show corporate ethics in many ways.²²

3.5 Legal framework of business ethics

There are many laws that ensure the implementation of business ethics while doing business activities. Corporations need to remember provisions which need to be followed for implementation of business ethics in their business.

¹⁹ *Supra* note 8

²⁰ *Supra* note 16

²¹ *Supra* note 8

²² *Supra* note 15

In India, *The Indian Contract Act of 1872, the Sale of Goods Act of 1930, the Dangerous Drugs Act of 1930, the Agricultural Produce (Grading and Marketing) Act of 1937, the Drugs and Cosmetics Act of 1940, the Indian Standards Institution (Certification Marks) Act of 1952, the Hire Purchases Act, 1972²³ and the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980²⁴, the Trade and Merchandise Marks Act, 1958, (Now Trade Marks Act, 1999), the Patents Act, 1970²⁵, the Prevention of Food Adulterate act, 1954* are general acts which ultimately aimed at protecting consumer interests.²⁶ These act make sure that interest of stakeholders remain secured and protected through ethical practices. The need to ensure guarantee, basic rights to life, education, safety and etc. of consumers and stakeholders has long been recognized by the world over and various general legislation was enacted in India and abroad in this direction.

All laws that I have mentioned above deal with somewhere with the concept of business ethics. All these laws provide that a company must be accoupled with ethics and keep in mind that only ethical practices can make more profit. Basic right of consumers and society should not be infringed by the business activity. The purpose of all that action is to prevent businesses from doing any act which is not ethical and ensure the protection of society from such kind of wrongdoing.

²³ The Hire Purchases Act, 1972 (Act 26 of 1972).

²⁴ The Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Act 7 of 1980).

²⁵ The Patents Act, 1970 (Act 39 of 1970).

²⁶ ICSI CS executive study material “Economics and, business and commercial law”, available at: https://www.icsi.edu/media/webmodules/FINAL_EBCL_BOOK_10022020.pdf (last visited on May 14, 2020).

CHAPTER-IV

4. INTER-RELATION BETWEEN CSR, BE AND CG:

4.1 Inter-relation between CSR and corporate governance

Both CSR and Corporate Governance concentrate on corporate ethical principles and practices in the business and an organization's attention to its stakeholders, as well as the society in which it works. Corporate Governance and CSR results in better image of an organisation and directly affect the performance of an organization. It is pertinent to mention here that transparency, disclosure, sustainability, and ethical behavior is a central theme in both CSR and Corporate Governance. Further, it is worthwhile to mention that CSR is based on the concept of self-governance which is related to the external legal and regulatory mechanism, though corporate management is a company's primary decision-making tool for management. In addition, CSR and Corporate Governance purposes and benefits are similar in nature. As corporate governance is increasingly supported by ethical norms and the need for transparency and accountability, and CSR adapts to prevailing business practices and legal framework which aims to achieve corporate governance, a potential convergence between them surfaces.²⁷

Both serve same result and objectives that companies want to achieve from these two terms are also considered to be as same. CSR and CG is the two supporting hands of a companies in terms of meeting governance and responsibility in a corporation.

CSR and Corporate Governance is interrelated and complementary to each other, by incorporating CSR provisions within Corporate Governance framework would be beneficial for India as well as for companies too.

According to **Jeremy Moon**²⁸ CSR and CG are not the same thing; nor different things; nor the two side of the same coin. Rather, they are overlapping; inter-related; potentially mutually tempering or reinforcing. CG emphasizes the company's external regulation and internal control through legal means and believes that the supervisory role is regulated by the board of directors and senior managers. CSR is about how the firm regulates its own behaviour with reference to social norms; now including external, mainly 'soft', governance systems (e.g. multi-actor, private codes of conducts, commitments, partnerships, associations).²⁹

²⁷ Dr. D.P.Verma & Raj Kumar, "Relationship between Corporate Social Responsibility and Corporate Governance" 2 IOSR Journal of Business and Management (IOSRJBM) (2012).

²⁸ Velux Professor of Corporate Sustainability, CBS.

²⁹ Corporate governance and corporate social responsibility, available at: <http://www.bos-cbscsr.dk/2015/01/13/corporate-governance-and-corporate-social-responsibility/> (last visited on May 5, 2020).

4.2 Inter-relation between ethics and corporate governance

Corporate Governance has a broad scope. It includes both social and institutional aspects. Corporate governance facilitates a trustworthy, legal and ethical climate. In other words, disclosure, accountability, transparency and integrity are the cornerstones of corporate governance. Needless to mention, that mere law does not guarantee good governance. Good governance flows from responsible business ethical practices even if there is no legislation in effect.³⁰

When it comes to discouraging unethical activity and to regulating its negative sides and its harmful side effects, companies often look to administration, managers and staff to report any incidences they observe or experience. Although, the barriers within the companies culture itself (such as fear of retaliation for reporting misconduct) can prevent this from happening.³¹ Companies culture depends upon its employers and employee's behaviour toward company, meanwhile corporate governance leads the way by monitoring companies working and by creating transparency in the company's environment, by making working staff accountable for unethical practices.

Good corporate governance fosters confidence among investors, which is crucial for the ability of listed entities to compete for capital. Good governance is important in developing stakeholders' added value, because it ensures accountability that ensures good and balanced economic growth. This also ensures that the interests of all shareholders (majority as well as minority shareholders) are safeguarded. It guarantees that any shareholder exercises his rights completely and that the company respects his rights.³² Corporate governance and business ethics are the tools which build or maintain confidence of stakeholders.

Corporate Governance is managing, monitoring and overseeing various corporate systems in such a manner that corporate reliability, reputation is not put at stake. Pillars of corporate governance on openness and fairness in practice which fulfil accountability and accountability to stakeholders.³³

4.3 Inter-relation between CSR and business ethics

For companies and entities business ethics is beneficial and important. In addition, social responsibility as well as business ethics is to be considered for earning or raising profits. I'd

³⁰ *Supra* note 8

³¹ *Supra* note 8

³² *Supra* note 8

³³ *Supra* note 8

like to suggest that CSR considers business ethics as a significant consideration. Good ethics requires good transparency and profitability on the part of businesses. Simultaneously, this could coexist with high integrity, ethical principles, high corporate transparency and good company. In other words, the more moral a company is, the more accountability, survival and competitiveness it has. I agree entirely that companies have been using more ethical methods to take more responsibility for society. If companies are not ethical, they might not take corporate social responsibility into consideration. Business ethics is more important in my opinion and corporate ethics should be followed by business ethics.³⁴

CSR and Business ethics goes hand to hand, these two terms are two sides of one coin. Again, it can be laid down that these two terms are complementary in nature as an entity has a social responsibility toward society same as following business ethics are also a responsibility of a company toward society.



³⁴ <https://www.quora.com/What-is-the-relationship-between-business-ethics-and-corporate-social-responsibility-CSR/answer/Faye-Faye-24?ch=8&share=03cd1c2e&srid=hJ19m>
(last visited on May 12, 2020).

CHAPTER-V

5. CSR, BE & CG ANALYSIS IN RELATION TO COVID 19:

5.1 Role of CSR during COVID-19

In the time of crisis, as is the case now, CSR needs to develop a new sense of urgency and obligation. The finance minister has declared that CSR funds can be spent on programs to resolve the effects of Covid-19.

Even before this announcement was made relating to the pandemic on March 23, 2020 for implementing lockdown all over the country, we've seen some individual corporate leaders offering facilities to battle Covid-19, they set an example for all.

There are some examples of benevolent businesses:

- Anand Mahindra, the head of the automobile giant Mahindra, has offered to turn Mahindra Resorts into Covid-19 patient care facilities.
- Reliance has established a 100-bed hospital in Mumbai, offering healthcare facilities through the Jio platform and providing free fuel for emergency vehicles.
- The CEO and President of United Airlines (and others) forego their salaries to ensure that company activities are not disrupted and that their citizens are paid to LVHM holdings that convert their facilities to rapidly manufacture hand sanitizers for free distribution in French hospitals.³⁵
- The chief of the natural resources conglomerate Vedanta, Anil Agarwal, has pledged the amount of '100 crore to fight Covid-19.
- Lush was one of the first organizations to provide help in the war against coronavirus by providing free hand-washing to all, without charge.

As the COVID-19 pandemic continues to evolve on a daily and almost hourly basis, it is an “all-hands-on-deck” situation to mitigate the health crisis that requires government, non-profits organisation, business and individual citizens to act and support.³⁶ During this uncertain pandemic time companies can act as positive force.

Start-ups like Mylab Discovery Solutions that are making indigenous test kits may be a

³⁵ CSR during-Pandemic of Covid-19 A-Ready Referencer, available at: [https://taxguru-in.cdn.ampproject.org/v/s/taxguru.in/company-law/csr-during-pandemic-covid-19-a-ready-referencer.html?amp_js_v=a3&_gsa=1&usqp=mq331AQFKAGwASA%3D#aoh=15883603633109&referrer=https%3A%2F%2Fwww.google.com&_tf=From%20%251%24s&share=https%3A%2F%2Ftaxguru.in%2Fcompany-law%2Fcsr-during-pandemic-covid-19-a-ready-referencer.html](https://taxguru.in/cdn.ampproject.org/v/s/taxguru.in/company-law/csr-during-pandemic-covid-19-a-ready-referencer.html?amp_js_v=a3&_gsa=1&usqp=mq331AQFKAGwASA%3D#aoh=15883603633109&referrer=https%3A%2F%2Fwww.google.com&_tf=From%20%251%24s&share=https%3A%2F%2Ftaxguru.in%2Fcompany-law%2Fcsr-during-pandemic-covid-19-a-ready-referencer.html)

(Lat visited on May 5, 2020)

³⁶ COVID-19: How Companies Are Responding; available at: https://www.csrwire.com/press_releases/44041-COVID-19-How-Companies-Are-Responding (last visited on May 13, 2020).

case in point. In this pandemic time, we need to operate and deploy mobile test laboratories in large numbers. CSR is a fast and efficient tool for ensuring this happens. We are facing with a possible catastrophe scenario and we will work on a warfare basis to solve the problems and increase the production and supply of PPE wherever it is needed. CSR should ensure that adequate supplies hit those epicentres to protect our safety and front-line employees.³⁷

5.2 Role of business ethics during COVID-19

To corporations, ethical decision-making is crucial. In other way it can be said, that in the midst of this crisis, ethics is not less important; rather, ethics becomes much more important in the view that more challenges faced by companies. While ethical business decisions are important in the shortest possible time, ethical considerations offer important guidance for effective decision-making in the face of a real public health crisis.³⁸

In recent times, business ethics has become an integral part of any company as its companies' responsibility to comply with their ethical values during the time of crises like now days. Business ethics play a crucial role during tis pandemic problem. During this time BE guide and suggest companies not to perform unethical practices like increase prices, hoarding, sale of bad quality product, and etc. an entity should have respect for values and principle especially at present time. Companies should not take advantage of this pandemic time by using wrong means of earning. However, use this time as an opportunity by using right means of doing business.

There is a saying of a Professor that Companies want their employees also to have certain knowledge of management is reliable. He said, in this time of crisis, employers should not abandon their "core values" but should continue to be guided by them. My general piece of advice is, 'Don't lose sight of your values,'" toward employee welfare and customer service, even if it costs a company money in the short-term, Smith said.³⁹ I want to add on that if in short run it cost or creates expenditure to the company but in long run this will generate profits and makes goodwill of companies and will be profitable for a organisation.

³⁷Prem Das Rai & Sarath Davala, "Covid-19 & CSR: Time for India Inc to step up" *Financial express*, April 2, 2020, available at: <https://www.financialexpress.com/opinion/covid-19-csr-time-for-india-inc-to-step-up/1916628/> (last visited on May 3, 2020).

³⁸ Ethical Business Decisions in the COVID-19 Crisis, available at: <https://www.jdsupra.com/legalnews/ethical-business-decisions-in-the-covid-51535/> (last visited on May 5,2020).

³⁹ Should your company tell you when coronavirus hits the workforce? available at: <https://www.king5.com/article/news/health/coronavirus/should-your-company-tell-you-when-the-virus-hits-the-workforce/281-8138245a-71f2-4d9e-a376-d50fa60f9481> (last visited on May 8).

5.3 Role of corporate governance during COVID-19

Corporate governance has been established as good tool for companies during the COVID 19 crisis as it is serving a roadmap by providing a way, that how companies can act or do business activities during this global crisis, it is guiding the companies through top management and directors by defining the role of key personal during this time.

Companies must evaluate and determine important interest of key stakeholders, including staff, shareholders, communities and government. Companies will lead from the top – this is a vital moment for business leaders to tackle the crisis and make their businesses thrive from the crisis.⁴⁰ The follow-up to business ethics and performance of social responsibility can achieve corporate governance. Businesses have shut down their offices and make it compulsory for employees to work from homethat thing also required proper corporate governance, and only effective governance can make it successful.

COVID 19 crisis is not just affecting or disturbing the health and well-being issues, but also disturbing financial one that is severely disrupting operations and functions of the entities. In the recent time effective corporate governance has come to the fore in India. Organisations board and senior management must be clear about and performed their roles and duties during a crisis.

To appoint KMP, small shareholder director, independent director is also an important step for securing corporate governance. Small shareholder directors are required to control and prohibit the act of oppression and mis-management with minority shareholders. Independent director is required to handle the company's issues and matter related to stakeholders and society without any prejudice. ID is person who is not connected with a company in any way that may affect his/her opinion while taking any kind of decision for a company. So, all these things should also be taken into consideration for implementation of corporate governance.

During this standstill time, it is the role, duty and responsibility of the white-collar personal of the companies to implement corporate governance strategy.

5.4 Outcomes Of CSR, BE & CG

The objective and purpose of CG, CSR and business ethics are similar in nature. However, the term CSR and business ethics are complementary to corporate governance. Only by fulfilling CSR and by using business ethics in right way corporate governance can be achieved properly. In the way car and petrol is connected in same way CG and CSR is also connected, as any

⁴⁰ *Supra* note 37

change has been done in CSR it undoubtedly affects CG. Not only does CSR represent CG systems but it also forms them.

Purposes and objectives of CSR, BE & CG are same in nature, such as:

- Ensuring public trust and confidence through increased transparency in both financial and non-financial reporting, thereby increasing the shareholder value;
- Building corporation's strong brand image.
- Making or rebuilding significant improvements in its relationship with numerous stakeholders;
- Contribute to the growth of the community and of society around its operating area.
- Addressing its numerous stakeholders' concerns in a fair manner in order to retain a good market position;
- Maintain investor confidence, ensure corporate and economic growth.

CSR, business ethics and corporate governance are working with same objective. At the end all these terms will serve same purpose, goal of these terms is same but the way of achieving that objectives are little different in nature.

Business ethics is an internal mechanism and CSR is an external mechanism for ensuring corporate governance inside and outside the entity. ***Business ethics guide entities in a way that an entity must "stick with their values" even in the time of crises. And in a same way CSR guide entity in a way that an entity must "stick to their responsibilities" even in the time of crisis.*** Values of an entities are their guiding principles that a company should follow for making growth in long run. Responsibilities of an entities are their duty that a company should fulfil for making goodwill of a company.

In these uncontrollable times, CSR and brand, business ethics, corporate governance continue play an important role. The value of authenticity, commitment and community outreach allows businesses during this time to keep their brand and credibility authentic. Companies demonstrate dedication and participation by endorsing causes during COVID-19, and helping NPOs or charities tell their story. Every day we see examples of businesses taking decisions that put their customers first, but still doing their business well. Companies are adapting to the pandemic in creative ways that will further their brand in the long run while caring for people in the current climate.⁴¹ Stands taken by corporations during this pandemic through CSR, BE & CG will add goods to the businesses.

⁴¹ Why Maintain a CSR Presence During COVID-19 Impact?, available at: <https://solutions.yourcause.com/covid-pandemic-maintain-csr/> (last visited on May 10, 2020)

5.5 Law for CSR during COVID -19

Spending of funds contributed for fighting against COVID-19 shall be considered as CSR expenditure as per CSR activities under section 135, of *companies act, 2013*⁴² & schedule vii. and shall be qualified for CSR expenditure.

Circular no. 15/2020 of 10 April 2020, the MCA vide published and issued FAQs related to Corporate Social Responsibility (CSR) on COVID-19.

Under schedule VII of companies act,2013, any contribution to the "Chief-Ministers' Relief Fund" or "COVID-19 State Relief Fund" as a CSR expenses shall not be eligible for a contribution to those funds and counted under CSR expenditure.

List of expenditures that Shall be treated as contribution for CSR activities:

Any kind or type of Contribution made: -

- Under Schedule VII of companies act, 2013 to PM Cares Fund in item no. (viii).
- Under schedule VII of companies act to State Disaster Management Authority through item no (xii).
- under items nos. (i) and (xii) of Schedule VII as a Spending of CSR funds for COVID-19 related activities which is concerning to the promotion of health care including preventive health care and sanitation, and disaster management.⁴³
- over and above the disbursement of wage to temporary/casual workers/ daily wage workers are (Ex-gratia payment).

Contributions that shall not be treated as a CSR expenditure for CSR activities:

Any type of Contribution made to: -

- Temporary/casual /daily wage workers which is a payment of normal or regular wages.
- Employers and contractors including contract labour as a payment of salaries of regular days.

5.6 Legal framework related to Business ethics and corporate governance:

BE and CG are not anywhere defined particularly, there is nowhere a special provision which

⁴² *Supra* note 2

⁴³ [COVID-19 related FAQs on Corporate Social Responsibility by MCA](https://taxguru.in/company-law/covid-19-related-faqs-corporate-social-responsibility-mca.html), available at: <https://taxguru.in/company-law/covid-19-related-faqs-corporate-social-responsibility-mca.html> (last visited on May 12, 2020)

is related directly to these terms, however there are legal provision under various acts which not in straightway deals with these two terms but involves and provides use of these terms while dealing with others provisions of law.

Every company is required to make a board report and need to disclose the same relating to compliance for various laws or under various enactments. The *Companies Act, 2013*, SEBI (Listing obligations and Disclosure Requirement) Regulations, 2015 and, *Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013*⁴⁴ have mandated disclosures at many places. Disclosures to be made by the company on the website, through its Annual report and Annual return. SEBI (Listing Obligations and Disclosure Requirement) Regulations, 2015 requires listed entities to maintain various policies.⁴⁵ We have provisions under companies act, 2013, SEBI regulation, 2015 and etc. relating to the compliance of companies matter. all provision discussed above provide roadmap for making better use of business ethics and corporate governance in an entity.

There are laws for smooth functioning of businesses, society and entities and etc. The primary goal behind all legislation is to ensure that companies carry out their operations and meet their duties towards society and customers by upholding business principles (ethics) and also by introducing a sound corporate governance strategy.

- ***Sales of good act,1930***⁴⁶ describe laws and provides guidelines for business entities as well as for consumer also for sale and purchase of goods, define rights and duties of seller and buyer, In other way I can say it define the scope of business ethics that an entity should follow while doing a business activity.
- ***Prevention of Money-laundering Act, 2002***⁴⁷; The economic and political influence of criminal organisations can weaken the social fabric, collective ethical standards.⁴⁸ This act also connected to ethical practices, act is enacted to prevent money laundering which is an unethical practice. This act aims at promoting the ethical practices and principles that should be followed by a company.
- ***Consumer Protection Act, 1986***⁴⁹, Unfair and dishonest practices have grown rampant such as the sale of defective or sub-standard goods, exorbitant charges,

⁴⁴ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act,2013 (Act 14 of 2013).

⁴⁵ICSI CS executive study material “economic, business and commercial law”, available at: https://www.icsi.edu/media/webmodules/CompanyLaw_BOOK.pdf (last visited on May 14,2020)

⁴⁶ Sales of good act,1930 (Act 3 of 1930).

⁴⁷ Prevention of Money-laundering Act, 2002 (Act 15 of 2003).

⁴⁸ ICSI CS executive study material “economic, business and commercial law”, available at: https://www.icsi.edu/media/webmodules/FINAL_EBCL_BOOK_10022020.pdf (last visited on May 14, 2020).

⁴⁹ Consumer Protection Act, 1986 (Act 68 of 1986).

misrepresentation of the goods effectiveness or usefulness, neglect of safety standards, etc. Therefore, even in developed countries, it became necessary to develop statutory measures to make producer / traders more consumer responsible.⁵⁰ This act provides all those laws which are made for the protection of consumer. So again, it can be concluded that this act is enacted to prevent, prohibit and monitor businesses which are doing unethical practices.

- ***Essential Commodities Act, 1955***⁵¹ The Preamble to the act states that it is an act which ensures regulation of the production, supply and distribution, as well as trade and trade of certain commodities in the interest of the general public. The key aim of the Act is to ensure a fair distribution and availability of essential commodities at fair prices for the public benefit.⁵² As its key aim itself guiding businesses to perform ethical business practices.
- ***Income Tax Act, 1961***⁵³, Provides for deduction in respect of company expenditure under income tax act. Since CSR expenditure related provisions came into effect, a dispute arose. Companies need to comply with tax provisions, but during COVID-19 situation it is not possible for companies. Companies required governance strategy to deal with this issue. Filing of returns and other tax compliances are required to be completed and that need corporate governance.
- ***Real Estate (Regulation and Development) Act, 2016***⁵⁴*this act was enacted by the parliament* with the aims of protecting public rights and interests and promoting and standardization of ethical market practices in real estate transactions.⁵⁵ Objective behind making this act is to promote fair and ethical practices relating to real estate.
- ***Legal metrology Act, 2009***⁵⁶ Purpose to establish is to enforce weight and measure standards, and to regulate trade in weights, measures.⁵⁷ To follow standards relating to measures and weight and by meet with this requirement business also ensure corporate governance and form a part of business ethics again this act is promoting business ethical practices.

⁵⁰ *Ibid.* at 47

⁵¹ Essential Commodities Act, 1955 (Act 10 of 1955).

⁵² *Ibid.* at 47

⁵³ Income Tax Act, 1961 (Act 43 of 1961).

⁵⁴ Real Estate (Regulation and Development) Act, 2016 (Act 16 of 2016).

⁵⁵ *Supra* note 49

⁵⁶ The Legal Metrology Act, 2009 (Act 1 of 2010).

⁵⁷ *Supra* note 49

- **Competition act, 2002**⁵⁸ This act is framed to prohibit unfair trade practices, to prevent practices having adverse effect on the competition, to promote competition in the market, to protect the interest of investors, to regulate the combination in the market.

Businesses also have responsibility to inform proper authority about the contravention of the provision of the act. entity must also take permission for doing activities if it touches any limits under any act. If any entity done all such things then this led to an accomplishment of corporate governance and business ethics in the entity.

From the above discussion it can be laid down that an entity which is complying with all the provision of the ACTS that entity is governed properly and corporate governance in that entity is done properly. CG strategy in that entity id implemented wisely and nicely meanwhile that entity is also properly coordinating with business ethics.

During COVID-19 pandemic many employees, migrant workers, labours has lost their jobs & works, and returning to their hometown, it turns into a situation of layoff. This is not a good thing for industries as well as for society after all this is a loss of whole economy. *Due to this situation provision of **labour laws** are being infringed and violated, i.e. provision related to payment of wages, health safety and etc. at the same time many companies have come forward with governance strategies and ethical business activities such as;*

- The reduction of COVID-19 associated tension and anxiety.
- Protecting the rights of workers and migrant workers in times of crisis.
- Improving safety of migrants by compliance monitoring and due diligence process.
- Adaptation of migrant workers ' job practices and living conditions;
- To ensure fair and ethical recruitment in times of crisis.
- Improve workplace safety and health.

⁵⁸ The Competition Act, 2002 (Act 12 of 2003).

CHAPTER-VI

6. SUMMARY, CONCLUSION AND RECOMMENDATIONS:

The definition of corporate social responsibility in India is regulated by Section 135 of the Companies Act, 2013 and Rules drawn up to include the requirements for determining the eligibility, execution and monitoring of a company's CSR policies. India has embarked on its journey with the most detailed CSR framework and implementation plan to set a precedent for achieving sustainability goals and stakeholder engagement for nation building.

CSR is growing and will become a single basis for the study and achievement of sustainability targets throughout the coming years. India is a nation which has ensured that CSR is enforced by means of its legislative involvement.⁵⁹ And also guiding tool for evaluating business ethics and achieving corporate governance.

Due to pandemic AGM with mass gathering is banned or discourage in many parts of countries. Contingency plans are used by companies like conducting AGM through online portal. Companies are conducting virtual meetings. This is a part of corporate governance strategies as it is responsibility of a director to continue working in standstill situation by opting the other legal ways or by making new guidelines with in the ambit of law. So that companies “going concern” concept will not destroy. Without affecting companies’ values which were earned till now entities should also comply with the requirement of compliances.

“Transparency and disclosure are fundamental to the way companies conduct themselves. Transparency and disclosure are essential elements of a robust corporate governance framework as they provide the basis for informed decision-making on capital allocation, corporate transactions and financial performance monitoring by shareholders, stakeholders and potential investors.” The new philosophy of transparency has made the businesses more accountable by requiring every stakeholder and stakeholder community to report a clear and fair image and provide fair view or disclose true picture.⁶⁰ The concept of transparency is helpful in maintaining and securing corporate governance, it let employers and staff to work properly.

⁵⁹ <https://www.csr.gov.in/about-us.php>
(last visited on May 10, 2020)

⁶⁰ ICSI CS executive study material “company law”, available at:
https://www.icsi.edu/media/webmodules/CompanyLaw_BOOK.pdf
(last visited on May 11, 2020)

Corporations actually have responsibilities for a range of stakeholders including Employees, clients, residents and the community. CSR focus more on society actually. Business ethics focuses on responsibilities for managers, employees within business agents. In addition, CSR and business ethics have to follow related regulations and laws. CSR and business ethics focus on corporates and the society. Moreover, CSR and business ethics is kind of moral obligations and behaviour toward society and its stakeholders.

Our testing capacities must be exponentially increased. We do have 118 government laboratories, and 12 private laboratories. Most of them are still getting themselves fit. This is one crucial gap that CSR can make very important contributions to. Certain Brands have come forward to manufacture ventilator sanitizer thermal tester drones landing assistance to the government in combating this COVID 19 pandemics situation.

There are many compliances relating to companies' management and conduct under various acts which need to be fulfilled by a company and its top management relating to AGM, Audit, registration, filing and maintenance of record, all these things are put on hold by the government of India by extending the deadline date for compliance of provisions. This is a part of corporate governance; companies' management staff will handle all this in its own way it shows how governance has been done in the companies. Through my research I have observed that companies are doing well and tackling all such problems in better way by making new rules and regulations, by framing new guidelines and code of conduct, they are getting benefitted by the provision of virtual meeting as given under section 173(2) of companies act, 2013. *It's director responsibility to take active step as a matter of good corporate governance in responding to the challenges and risk posed by covid-19 pandemic.*

If a company seek to earn profit in long run then it must comply business ethics, practices like insider trading, hoarding, unfair trade practices, exploiting consumer, and charging high prices for goods and services are unethical practices which should not be used by the companies if want to survive in long run. *especially in the time of crisis, which is presently happening, those companies following business ethics will succeed in future and earn profit in future time also.* In this time of global crisis various marketers and businesses are stepping up and shaking hands with the government. Brand taking this as an opportunity by looking the world and be as resourceful as possible towards the cause. many companies are focusing on facilitating vital necessity is like Masks, sanitizer, gloves, medicines, food to the underprivileged health

institutions, hospitals, and etc. all such initiatives show companies values and ethics and also its responsibility for society.

As per **section 3 and 4 of competition act, 2002⁶¹** any agreement which is made and any business practices taken by companies which are anti- competitive in nature are void ab initio, and are of punishable nature. *In short even law also guide or advice to follow ethical practices in business.*

When a company is able to secure the interest of stakeholders and society in which it operates then only corporate governance can be achieved, and interest can only be secured and protect through business ethics and CSR. *To take stakeholder and society into confidence is an important factor for achieving goal, and achieved through CSR and business ethics, this will lead to corporate governance.*

In straight way, there is no especial or particular law or provision related to business ethics and corporate governance. These two terms are commended by law in indirect way through provision of companies act, security act, competition act and etc.

CSR, business ethics and corporate governance are the three pillars of an entities. These three pillars make a company successful. These three pillars are the deciding factor for an entity's failure or successful. Whether a company is able to survive in society in which it is working, if survived then for how long. Further it's just not meant for survival only but succeed with earning sufficient profit which is needed for business working and survival. Only that entity whose intentions are clear and fair will succeed. And for that a company need to use these three pillars.

Business ethics and social responsibility, in short, are two principles within the business environment. Business ethics are the moral principles that a company uses to ensure that all employees act acceptably when carrying out business functions. Social responsibility is typically an ideological theory held by governments and the public at large. In other words, business ethics is mainly used in internal companies whereas CSR is highlighted in the

⁶¹ The Competition Act, 2002 (Act 12 of 2003), ss. 3,4.

public.⁶² Further it can be said that CSR is an external mechanism and business ethics is an internal mechanism for companies, used to manage and govern the business activities.

Due to crisis of pandemic production of many things has reduce and because of that labour forces have lost their works but at the same time production relating to those goods which are needed at the pandemic has increased and labour force has shifted there. Labours laws provision which were made by the parliament are taken into consideration during pandemic time for protecting the rights of migrant labour and for ensuring safety of workers.

There is a very famous line even can say a chit code for businesses that “customer is the king”, and customer is a part of society so it is a business responsibility that they take care of customer. Corporate ethics, responsibility and governance are tools which can be put to use for look after the customer and so on society, Production of PPE, Masks and ventilator has grown rapidly during the period of COVID 19 it’s an important as doctors, hospital staff, police officers, worker who all are working during this pandemic needs all this safety equipment and companies are providing timely and fulfilling the requirement very nicely. The response which are receiving from companies in the time of need is so good as they know their responsibilities, and ethics. Even though many companies also need to take part in this time and help the society and must act accordingly. Few unethical business practices are occurring such as warehousing, price hiking, artificial supply shortage etc. Taking care of self and others (personal and public hygiene) to be integrated with ethics. companies should follow ethical business practices. So, companies can participate not only by way of production but also by way of following ethical practices and performing corporate social responsibility.

⁶² *Supra* note 36

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