CSR Act amendments 2021

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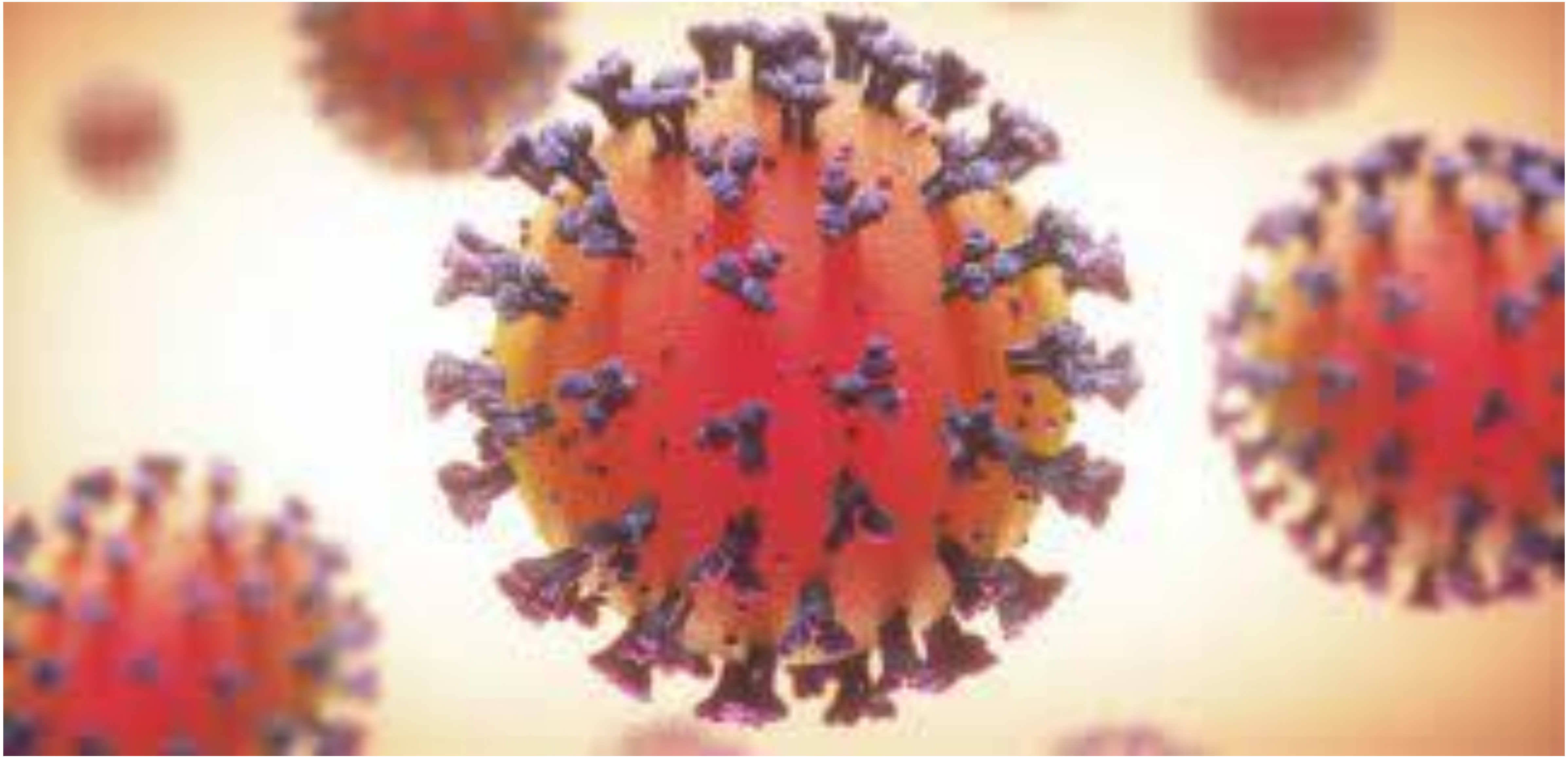
CSR

The Government of India notified amendments to the Companies (Corporate Social Responsibility) Rules, 2014 and Section 135 of the Companies Act, 2013 on January 22nd, 2021,

1. Eligible CSR spends

The following activities cannot be included as part of a company's eligible CSR spend:

- Activities which are undertaken in the normal course of business of a company, or those benefitting only its employees.
- Political contributions.
- Sponsorship activities.
- Fulfilment of statutory obligations and activities undertaken outside India (except for training of sports personnel representing a state or country at the national or international level)



Activities that can now be included as CSR:

- **COVID-19-related activity in the normal course of business:** This covers companies undertaking research and development into vaccines, medical devices, and drugs related to COVID-19, even if such activity is in their normal course of business. This exemption is allowed up to the financial year 2022-2023. However, the company must make separate disclosures in their annual report and must undertake such research and development in collaboration with an institute specified in Schedule VII of the act.
- **Acquisition or creation of a capital asset provided that it is not owned by the company:** The asset created using CSR funds must be owned either by the organization supported, or the people served by the project (for instance, collectives such as self-help groups), or by a public authority.

2. Treatment of unspent, excess, or surplus CSR amounts

Unspent CSR funds

Any unspent CSR funds remaining at the end of a financial year should be transferred in any of the following ways:

- **Transfer to an Unspent CSR Account:** Any unspent amount from an ongoing project should be transferred within 30 days of the end of the financial year, to the specifically designated 'Unspent Corporate Social Responsibility Account' to be opened by the company. These amounts should be spent within the next three financial years, in accordance with the company's CSR policy. If these amounts remain unspent even after the three-year period, then they should be transferred, within six months of the end of the financial year, to any fund specified in Schedule VII of the act (such as the PM National Relief Fund, PM CARES Fund, Disaster Management Fund, Clean Ganga Fund, and so on).
- **Transfer to a Schedule VII fund:** If the funds are unallocated to any CSR project, then such unspent amount shall be transferred, within six months of the end of the financial year, to any fund specified in Schedule VII of the act.

Surplus CSR funds

If any surplus arises out of the CSR activities, it must be:

- Spent on the same project which gave rise to the surplus, or
- Transferred to the Unspent CSR Account of the company, or
- Transferred to a fund as specified in Schedule VII of the act.

Excess CSR spends

If a company has spent amounts more than the mandatory two percent on CSR, the company can set off such excess amounts against the CSR spends in the next three financial years. The board of directors however, needs to pass a resolution for this. It’s important to note that such excess amounts cannot include the surplus arising out of CSR activities. For instance, if any interest is earned out of the assets acquired through the CSR funds, such interest would be treated as a surplus, but cannot be set off from the CSR budget of the following year.

Thank You