

Offsetting the excess CSR spent for FY 2019-20 against mandatory CSR obligation for FY 2020-21

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An appeal dated 30.03.2020 was made to MDs/CEOs of top 1000 companies to contribute generously to “Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund” (PM CARES Fund).

In the appeal, it was mentioned that such contribution may, inter-alia, include the unspent CSR amount, if any, and any amount over and above the minimum prescribed CSR amount for FY 2019-20, which can later be offset against the CSR obligation arising in subsequent financial years.

The Ministry has uploaded the appeal on the website and e-mailed it to the Corporates on 31.03.2021

In pursuance of the said appeal, certain companies claimed to have contributed CSR funds to the ‘PM CARES Fund’ over and above their prescribed CSR amount for FY 2019-20.

As a result, several representations have been received in the Ministry for setting off the excess CSR amount spent by the companies in FY 2019-20 by way of contribution to ‘PM CARES Fund’ against the mandatory CSR obligation for FY 2020-21.

MCA has now in a circular dated 20th May 2021, said that where a Company has contributed any amount to “PM CARES FUND” on March 31, 2020, which is over and above the minimum amount as prescribed under Section 135 (5) of the Companies Act 2013 for FY 2019–20, and such excess amount (or part thereof) is offset against the requirement to be spent under CSR obligations for FY 2020-21, subject to the fulfilment of the following conditions;

- The amount offset as such shall have factored the unspent CSR amount for previous financial years, if any;
- The Chief Financial Officer shall certify that the contribution to “PM CARES Fund” was indeed made on 31st March 2020 in pursuance of

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the appeal and the same shall also be so certified by the statutory auditor of the company; and

- The details of such contribution shall be disclosed separately in the Annual Report on CSR as well as in the Board's Report for FY 2020-21 in terms of section 134 (3) (o) of the Act.

For example: If in 2019-20, the requirement to spend on CSR was 50Lakh and in 2020-21, the requirement to spend on CSR was 60 Lakh.

The company has already spent in 2019-20 the amount of Rs. 1 crore and has spent an excess of Rs. 50 lakhs on PM Cares Fund.

In such a case, the company will get a set-off of such excess spending in 2020-21.

Therefore, the obligation for 2020-21 shall be Rs. 10 lakh (60-50).

To conclude, we can state that the companies which have contributed to the 'Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund' (PM Cares Fund) in 2019-20 above the requirement, have some ease in performing their CSR commitments for the year 20-21.

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FAQ's

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1	<p><i>Can the company set off any contribution made in the year 2019-20 to PM CARES Fund which is over and above the minimum amount as prescribed under section 135(5) against the requirement to spend under section 135(5) for FY 2020-21 without setting off the unspent amount for previous financial years?</i></p> <p>No, the circular has specified that the amount offset as such shall have factored the unspent CSR amount for previous financial years if any. All the previous year unspent amount should be settled.</p>
2	<p><i>In the case of a Private Company, who shall certify that the contribution to the "PM CARES Fund" was indeed made on 31st March 2020?</i></p> <p>In the case of a Private Company, any director can certify the same.</p>
3	<p>In case a company is not having CFO, who will certify that the contribution to the "PM CARES Fund" was indeed made on 31st March 2020?</p> <p>If CFO is not appointed, then the Managing Director will certify and in case the MD is not there, any director can certify the same</p>