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Can Indian Companies Balance Profits and the Planet? The Act's Take on Climate Change

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Global firms now have serious concerns about climate change. India is addressing its environmental impact as a rising economic power. Although its efficacy is up for question, the Companies Act of 2013 is one tool in this battle. Indian corporations are finding it difficult to strike a balance between environmental sustainability and profitability as demand to address climate change mounts. This article examines how Indian businesses are affected by the Act, a recent piece of environmental law. It focuses on the evaluation of the possibilities for Indian corporations to attain a sustainable future and look at how the Act's provisions may affect corporate behaviour.

Mandating Environmental Disclosures:

The legal framework pertaining to environmental, social, and governance (ESG) is found under multiple pieces of law rather than in a single one.

Section 134(3)(m) of the Act is one of its main contributions. A Business Responsibility Report (BRR), as required by this provision, must be included in the annual reports of certain corporations. The Board of Directors' comment regarding the company's efforts to conserve the environment and energy must be included in this report. This clause encourages businesses to be more open about how they affect the environment. This data can be used by stakeholders and investors to evaluate a company's sustainability efforts.

Section 166(2) of the Companies Act, a director of a company must act in good faith to advance the company's objectives for the benefit of each and every member as well as in the best interests of the firm, its employees, the shareholders, the community, and the environment. This suggests that when making decisions, directors have a legal duty to take climate-related risks into account in addition to financial concerns.

This may involve elements such as:

- The possible influence of severe weather conditions on operations.
- Modifications to regulations concerning carbon emissions.
- A shift in customer preferences in favour of sustainable goods.

With effect from the fiscal year 2022–2023, SEBI expanded the BRR in May 2021 and replaced it with the new business responsibility and sustainability report (BRSR). The top 100 listed businesses by market capitalization were required by SEBI to submit a business responsibility report (BRR) in 2012, which detailed their non-financial performance across many ESG categories. Additionally, a BRSR outlining the listed entity's ESG actions must be included in the annual report of the top 1,000 listed businesses by market capitalization, as mandated by SEBI. Recent changes to the Listing Regulations, dated June 15, 2023, and the BRSR Core Circular, dated July 12, 2023, have allowed SEBI to develop a framework known as "BRSR Core" and "BRSR Core for company's value chain." The framework's main components are as follows: (i) BRSR Core, a subset of BRSR that consists of a set of metrics and KPIs under nine ESG attributes; (ii) an updated format for BRSR that incorporates new KPIs from BRSR Core; (iii) BRSR Core for value chain; and (iv) an assurance requirement for BRSR Core (including value chain). As a result, starting in FY 2023–2024, the top 1000 listed businesses (by market capitalization) must include disclosures in their annual report that follow the new BRSR structure. For the current FY 2023–2024, only the top 150 listed entities (by market capitalization) are subject to the requirement to undertake reasonable assurance of BRSR Core; from FY 2026–2027, this requirement will progressively expand to the top 1000 listed entities. The assurance provider must be free from conflicts of interest and possess the knowledge and experience required to give acceptable assurance in the field of sustainability. While disclosures for value chain are required to be made by the listed company as per BRSR Core, as part of its annual report, ESG disclosures for value chain and its limited assurance shall become applicable to top 250 listed entities (by market capitalization) on a comply-or-explain basis from FY 2024–25 and FY 2025–26, respectively. The remaining listed entities may voluntarily disclose the BRSR or obtain the assurance of BRSR Core, for themselves or for their value chain.

BRSR/BRSR Core is the primary format for ESG reporting in India. In addition to being obliged to declare a BRSR in their annual report, the top 150 listed businesses (based on market capitalization) for the fiscal year 2023–2024 must also provide a reasonable guarantee of BRSR Core. Value chain partners of the top 250 listed firms by market capitalization must additionally disclose in their annual reports in accordance with BRSR Core starting in FY 2024–2025, on a comply-or-explain basis. The annual report is posted on the company website, sent to shareholders, and filed with the stock exchange.

There is a surge in shareholder activism on ESG issues due to a number of factors, including increased involvement from institutional investors, a reduction in information asymmetry, and reinforcement of corporate governance standards. More and more shareholders are interacting with management on social governance issues.

The majority of shareholder activism in India has been directed towards governance-related concerns, like insider trading. Proxy voting and resolutions constitute another facet of shareholder activism. Hundreds of environmental and social shareholder resolutions have been filed in jurisdictions like the US on subjects including diversity in the workforce and on company boards, human rights, human capital management, and climate change and other environmental challenges. India has not yet seen the same level of manifestation of this tendency.

Additionally, Indian asset managers are being pushed by regulations to be open about their vote choices in investee companies. In this regard, SEBI recently decided to increase transparency on votes cast by ESG schemes. Specifically, the asset management company must clearly disclose on its website, under the rationale for voting decisions for each investee company (whether in favour or against), whether the resolution has been supported or not due to any ESG considerations. Effective April 1, 2024, forward, annual general meetings will be subject to the expanded voting disclosures.

Some Common Examples:

A lot of Indian businesses are adjusting to ESG regulations, and their boards are spending a lot of time talking about ESG matters. In an effort to create a sustainable ecosystem, businesses are implementing a variety of policies and practices, including lowering their carbon footprint, utilising renewable energy, voluntary CSR, opening medical and educational facilities, implementing variable pay, and including ESG into top management's KRAs. Here are a few of the more notable instances:

- The Water Stewardship Standard (AWS Standard), the international standard for water stewardship, will be certified for all of ITC Limited's factories and hotels working in highwater stress by 2035. This makes ITC Limited the first corporation in India to make this commitment. Due to its responsible water management measures, ITC's factory in Malur, Karnataka has been granted the renowned AWS Platinum level certification, making it the first food facility in Asia to do so.
- More than a dozen corporations have made the commitment to become carbon neutral within the next several decades. Some of these companies are reorganising their operations to meet net-zero emission timelines, including Reliance Industries, TCS, Infosys, Larsen & Toubro Ltd, Flipkart, Vedanta, JSW Energy, and HDFC Bank.
- The State Bank of India (SBI) has been rated 'B' in the 2022 Carbon Disclosure Project, an internationally renowned initiative that assesses the environmental effect of enterprises. SBI has implemented green measures, such as obtaining 32 green building certifications and installing 46 electric vehicle (EV) chargers.
- Consumer products manufacturer Marico has included ESG in its senior management KRAs for pay decisions. Additionally, it has promised to achieve net-zero emissions and switch all of its product line's packaging to 100% recyclable, reusable, and compostable by 2025.
- Sustainability is seen by Tata Group companies as one of the organization's business goals.
- Venture capitalists are interested in funding startups that actively promote ESG objectives. For instance, Bangalore-based Breathe ESG, a start-up providing an all-inclusive SaaS platform for companies' sustainability measurement, management, and reporting needs, raised USD 160,000 in seed funding from 100X.VC.

Challenges and Looking Forward:

India, a country on the verge of economic dominance, is at a crucial juncture. In addition to being a major growth engine, its industries also significantly increase greenhouse gas emissions. This raises the question of whether Indian businesses can, in the face of climate change, balance their desire for profits with their commitment to the environment. The Act, a recent piece of environmental law, offers chances as well as obstacles for striking this important balance.

Adopting sustainable practices can be expensive up front, which is one of the main obstacles for Indian companies. Making the transition to renewable energy sources, putting energy-efficient technology into practice, and modernising infrastructure all need large capital outlays. For small and medium-sized businesses (SMEs) with tight budgets, this can be especially intimidating. Furthermore, switching to greener manufacturing methods could cause temporary disruptions in productivity, which could have an effect on output and profitability.

A further difficulty is figuring out complicated regulations. Although the Act is a significant step forward, businesses wishing to comply may encounter bureaucratic obstacles. Adopting sustainable practices proactively can be hampered by uncertainty about implementation and the possibility of repeated adjustments.

Moreover, a major barrier may be a company's lack of knowledge and experience with environmental issues. A culture shift within organisations is frequently necessary to include environmental factors into business operations. Encouraging a culture of environmental responsibility and providing employees with the appropriate knowledge are essential elements in guaranteeing long-term sustainability.

The Act does, however, also provide Indian businesses a strong chance to take the lead in the world's transition to a greener future. Businesses that embrace sustainability can capitalise on the rising demand from customers for environmentally friendly goods and services. This could create a competitive advantage by expanding brand recognition and opening up new market prospects. The Act might also encourage the development of clean technology, establishing India as a centre for sustainable solutions.

Going ahead, success requires a multifaceted strategy. The load can be greatly reduced by government initiatives that offer financial and technical support to businesses, especially SMEs, as they switch to sustainable practices. To develop and implement affordable green technology, industry, government, and academics must work together. Furthermore, encouraging environmental education and knowledge-sharing platforms within businesses can encourage workforces to embrace sustainability.

Customers are also very important. They may encourage corporations to prioritise sustainability by learning about environmentally conscious enterprises and making educated decisions. Public awareness raising can exert further pressure on the government to tighten environmental laws and hold businesses responsible.

In the end, it takes a team effort to strike a balance between earnings and the environment. For Indian businesses, the Act is a launching pad for long-term, sustainable growth. Indian firms may ensure sustainable prosperity and promote a more environmentally conscious future for all by embracing innovation, teamwork, and a strong commitment to environmental responsibility in the face of adversities.

The Act creates a framework, although some claim it is insufficiently strict. The punishment associated with failing to comply with environmental protection obligations could not be a powerful enough deterrent for big businesses. Directors also have some discretion in striking a balance between profit and environmental concerns. In the future, possible enhancements might involve:

- Tightening disclosure regulations to incorporate particular measures relevant to climate change.
- Linking the Act to standardised reporting structures such as the Taskforce on Climate-related Financial Disclosures (TCFD).
- Tightening up the sanctions for environmental infractions.

Conclusion:

An encouraging beginning towards incorporating environmental factors into business decision-making in India is the Companies Act, 2013. The Act establishes the foundation for upcoming rules and a move towards environmentally friendly corporate operations, notwithstanding its limits. It is reasonable to anticipate additional Act adaption and strengthening as the fight against climate change takes momentum. There are challenges in the way of striking a balance between environmental responsibility and profit. The upfront expenses of implementing sustainable practices and managing new rules present serious difficulties for Indian businesses. But these obstacles can be surmounted by working together with the government, corporations, and the community at large. This change may give businesses a competitive edge by drawing in eco-aware customers and improving their reputation.

Support from the government is essential for achievement. Making the switch to sustainable practices might be less intimidating for SMEs in particular with financial and technical support. The government can also contribute by encouraging collaborations between business and academics and research and development in clean technology. Consumers with knowledge who base their decisions on environmental factors might encourage businesses to give sustainability first priority. A more conscious population can exert pressure on the government to tighten environmental laws and make companies answerable for their ecological footprints.

In the end, building a sustainable future requires cooperation from all. Companies must show that they are genuinely committed to environmental responsibility—not merely in response to laws, but also as a fundamental principle that guides their long-term goals. Indian businesses can lead the way in sustainable growth that protects their future and makes the world a better place for everyone by overcoming obstacles with creativity, teamwork, and a common dedication to the environment.

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