PROVISOS OF CSR IN THE INDONESIA NATIONAL LAW IN THE VIEWPOINT OF WORLDWIDESPECULATION UNDERSTANDING

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Abstract:-
This article expounded statements of corporate social obligation as government arrangement and its suggestion to the worldwide speculation understanding. It is likewise investigate the primary arrangements of thoughts and the hypothetical structure that shape the premise of CSR as presented in article 15 of Investment Law. The examination uncovered the job of social duty and condition administration as a commitment in securing the enthusiasm of the states; financial specialists; people groups and contrasting it and the Prohibition of Execution Requirement (PPR) as for the most part presented in universal venture understanding, especially in speculation section under FTA.

Keywords:- Investment, assentation, CSR.

Introduction:-
Statements of CSR as presented in Investment Law has numerous ramifications to the International Investment Agreement, lawful system of worldwide assentation included whole government strategy on venture. Worldwide venture assentation comprise of respective, multilateral and International Investment Agreement IIAs. Legitimate premise of two-sided and multilateral venture assentation was altogether different since every ha distinctive reason understanding. Two-sided understanding to be specific BITs, Bilateral Investment Arrangement marked by legislature of Indonesia with in excess of 86 nations on the planet; the goal of BITs made by two nations is to shield the enthusiasm of financial specialists from the two states, while multilateral venture understanding for the most part fall under the FTA (Free Exchange Area) assentation and International Investment Agreement in standards characterize as understanding including in excess of two states. Article 15 of the Investment Law requires outside and local financial specialists to participate in social duty, rebelliousness with article 15 can prompt managerial assents. Discussion among researchers initiating from meaning of CSR, Carol and Buchholtz (2000, 35) offer meaning of CSR, that includes the financial, legitimate, moral and altruism desires set on associations by society at given point in time. The CSR likewise generally known as social wonder alongside advancement of social
cooperation especially among industrialist and business networks. The ethical issues emerging from industry and business action has possessed of rationalists, researcher, authors religious pioneer and officials for a considerable length of time. As of late CSR (Corporate Social Responsibility) turned into a critical points issue. The talks of CSR comprehensively examined among the researcher, industrialist, financial specialist, legal counsellors and others invested individuals. The centre of the discussion has concentrated fundamentally on inquiries around and viewed as fitting of the privilege or obligations of the administration, organizations, people groups and partner on the loose. The normal topic certainly in characterizing CSR is reconciliation, implies that incorporation of financial, social, lawful and charity. As a free and sovereign state, government has a commitment to secure the privilege of the country and its people groups in different part of life. The accessibility of products and enterprises is basic to serve the people groups everywhere, subsequently in keeping up those availabilities State is oblige to undertaking any arrangement and activity to sustain the nation's financial exercises and supportable advancement. This is a results of the usage of article 33 (4) State Constitution 1945 "The National Economic is based financial majority rules system with the standards of fellowship, productivity with equity, maintainability, natural invitingness, autonomy and an equalization financial advancement and national solidarity" moreover article 34 "(1)The poor and dismissed youngsters are kept up by state, (2) The state creates long range interpersonal communication framework for all nationals and to enable the frail unfit as per human pride, (3) The state is in charge of the arrangement of social insurance offices and open administration they are merit, (4) additionally arrangements concerning the execution of this article will be inside the law".3 In the Indonesia positive laws, the State Constitution is the most elevated wellsprings of laws. Chain of importance, the request of Indonesia positive laws:

1. The 1945 Constitution (Undang-UndangDasar 1945);
2. Resolutions (Undang-Undang)/Interim Emergency Laws (PERPU);
3. Government Regulations (PeraturanPemerintah);
4. Presidential Regulations (PeraturanPresiden);
5. Territorial Regulations (Peraturan Daerah).

Law must not strife with any law higher than any possess compose in the chain of command and law can revise or repudiate any law that is lower than that is type in the progression. The legitimate premise of Indonesia CSR originated from Investment (Law No. 25 of 2007), Constrained Liability (Law No. 40 of 2007) and State Own Enterprises (Law No. 19 of 2003) supplemented by Government Regulations, Presidential Regulations, Regional Regulations and Minister Decree. There is solid contemporary enthusiasm for investigating the connection between corporate social duty and natural duty. Covering in actualizing control at some point is inescapable. For instance in the degree of responsibility for organization, the organizations, for example, Garuda Indonesia and PT Telkom, in nature they are open organizations, the greater part of the offer presented by the administration as a
results those organizations likewise fall under State Own Enterprises Law. In regulating setting there will be clashing of enthusiasm, on one hand arrangement of CSR in the Limited Liability Company Law is restricted to the organization which performs in the field of common assets and there is no commitment to attempt the CSR to others organization then again, the arrangement of CSR as states in the State Own Enterprises Law and pursues by Minister Decree and Minister Regulation is clear also, including standard operational system, there will be no uncertainty to embrace corporate social duty. Having foundation of the foundation of this article, the segment of the article partitioned, for example, pursues:

Segment I._inspects the recorded foundation and nature of the lawful premise of CSR in Indonesia.

Segment II. Presenting the Nature of CSR in the point of view of lawful structure.

Segment III. Legitimate structure of CSR in the point of view of Indonesian National Law, applies the lawful system to the advancement of CSR in Indonesia and the intuitive procedure related with the legitimate development, government arrangement and investigates the primary arrangements of thoughts and the hypothetical structure.

The last segment of the article makes the inference and proposal.

I. Authentic Background of the Legal Framework of CSR

Since Indonesia entering the change time (1998), House of Representative frequently proposed CSR as an obligatory thing in the

a few laws and controls which is identified with financial, social and condition, subsequently law and direction of CSR exist in

three laws, Investment (Law No. 25 of 2007) Law Limited Liability Company (Law No. 40 of 2007) and State Own Ventures (Law No. 19 of 2003).

CSR in Investment Law

Earlier 2007, Investment law in Indonesia comprises of two laws that is Domestic Investment (Law No. of 1967) and

Remote Investment (Law No. of 1968), in 2007 Parliament and Government consented to recharged Investment Law and

move toward becoming Investment (Law No. 25 of 2007). Remote Invested Enterprises and Domestic Invested Enterprises are organization

whose allowed financial benefits, for example, import obligation office and proposition for Income Tax office and non-monetary benefits, for example,

Number of Importers Produced, anticipating utilizing remote specialists and working visa from the legislature. The purposed of
change is to draw in remote and residential financial specialists, for example, makes reference to in article 3 (2) expresses the requirement for speculation to increment financial development, business, reasonable monetary advancement, national intensity, innovative limit and open welfare.

The equivalent treatment to household and remote financial specialists is confirmation, the rights allowed to the speculator states in the article 14 (a) Each financial specialist is qualified for acquire sureness of rights, law and security (b) open data concerning business areas inside which they are connect with (c) appropriate to administrations and (d) different of offices as per arrangements of directions of law.

Rather than inclinations that allowed to financial specialists likewise require to perform of commitments as states in the article 15 Every capital financial specialist is required to "Cling to standards of good corporate administration" Art 15(a), actualize corporate social duty Workmanship 15(b),make reports concerning capital venture exercises and convey them to Capital Investment Coordinating Board Art 15(c), regard social customs of society in area of capital venture business exercises and Art 15(d), satisfy all arrangements of directions of law Art 15(e).

The law identified with CSR as notices in the article 15 (b) actualize corporate social obligation, rebelliousness is prompt managerial assents, which incorporate admonitions or even the impediment, solidifying or dropping of speculation exercises as states in article 34 (1) these approvals will be forced by the organization with power as proclaimed in Law article 34 (2). In a typical sense CSR is incorporates of financial obligation, lawful duty, moral duty and altruism obligation,

the usage of obligation is on willful premise. One among the reason of necessity to satisfy CSR to outside financial specialist what's more, residential speculator pursued by regulatory endorse to the rebelliousness is to propagate socials life of the people groups and their condition from venture exercises. Other reason is in sure conditions deliberate CSR is can't appropriate to the need what's more, worry of different gatherings. Besides new Investment Law likewise enable outside speculators to get and hold arrive for longer than already allowed, from that point forward collaboration with the local encompass more purpose and as an outcomes domain obligation ought to be taken into record and the weight rose up out of those connections move toward becoming obligation of financial specialists and the people groups encompass. The extent of partners' job not just covers the social condition
obligation encompass in light of the fact that the social life at some point affected more extensive than the desire.

**CSR in Law Limited Liability Company (Law No. 40 of 2007)**

With the end goal to improve the national monetary advancement and giving a strong stage to business network in confronting the improvements of the universal monetary and furthermore the science and innovation, the administration expected to recharge the Law of Constrained Liability Company. Meaning of Limited Liability as alluded in article 1(1) (Law No. 40 of 2007), states "In this Law a Limited Liability Company (hereinafter called an "Organization") implies a lawful element comprises a coalition of capital, built up in accordance with an agreement with the end goal to convey business exercises with an approved capital which is isolated into offers and which satisfies the prerequisite stipulated in this Act and its actualizing controls". Also enterprise as the operators of financial welfare and capacity as constrained risk organizations are required to give included qualities as both money related returns for the investors and the advantage for the people groups and ecological protections. The law identified with CSR Corporate Ecological and Social Responsibility in Indonesia as states in article 74 builds up that's4

1. Organizations working together in the field of as well as in connection to normal assets must incorporate Environmental furthermore, Social Responsibility.

2. The Environmental and Social Responsibility mulled over in passage (1) comprises a commitment of the Organization which will be planned for and ascertained as an expense of the Company execution of which will be with due thoughtfulness regarding goodness and reasonableness.

3. Organization who don't try their commitment as thought about in section (1) will be at risk to sanctions as per the arrangements of administrative Regulation.

4. Additionally arrangements with respect to Environmental and Social Responsibility will stipulated by Government Regulation. In regard to the execution of article 74 p 1, 2, Limited Liability Companies Act No. 40 of 2007, express that "A partnership in playing out its commitments will be totally consent as per the reasons and targets of social and natural duty." Article (1), Environmental and Social Responsibility signifies "A Organization's responsibility to partake in reasonable financial advancement with the end goal to enhance the personal satisfaction and condition, which would be advantage for the organization itself, the nearby network and society when all is said in done."

**CSR in State Own Enterprises (Law No. 19 of 2003)**
As execution of the State Constitutions 1945, a few tenets and controls with respect to the CSR have been issued, for example in Law Number 19/2003 in regards to the foundation of the SOEs in like manner in article 2, "the SOEs must be dynamic on practicing and conveying help coordinated to little medium venture, agreeable and people groups. The point of practicing and conveying budgetary guides is to enhance social existence of the people groups all in all sense and to support the limit and ability of the little medium ventures and agreeable in leading their exercises on their particular business field.

How the State Own Enterprises execute their CSR? Clergyman of the State Owned Enterprises of the Republic of Indonesia, issued the Minister Decree (KeputusanMenteri) Number Kep 236/MBU/2003, on that announcement it is states "Express Own Undertakings are oblige to complete the organizations and condition training, the Indonesian those program is PKBL (PembinaanKemitraandanBinaLingkungan)". Association advancement program is characterized as change program for expanding the capacity of Small Medium Enterprises with the end goal to more grounded and independent. Natural Development Program characterized as Empowerment program of the socials of the people groups through the benefit of State Own Enterprises. Priest Decree No 236/MBU/2003 through Minister Decree (Permen No. Per-05/2007), point of the Minister Decree of 2007 to underscores State Own ventures in playing out their commitment, social obligation mindfulness, responsibility and corporate activities.

The stick purpose of strategy central, for example, pursues:

1. Benefit distribution most extreme 2% for the Partnership Development Program and Environmental Development Program,
2. Administrations Budget 6 % or subject to change,
3. Operational Cost : 100% organization. Advance and others income,
4. Business to Business cooperative energy,
5. Natural Development Program 30% for State Own Enterprises Environment Care and

Association improvement implies that is each State Own Enterprises oblige to build up the organizations especially associations with Small Medium Enterprises, no issues the business field of every others are same or diverse guides given to the Little Medium Enterprises is absolutely in the soul of philanthropy and charity. With no notice to the business field of every gathering demonstrating the nexus between two undertakings just as a normal business connection there are no covering in the proprietorships by any stretch of the imagination. The goal of the organization advancement will helping Small Medium Enterprises the limit and ability of Small
Medium Enterprises everywhere through capital guide, enhancing (administration, promoting, delivering expertise) and so on. PKBL as in which the expenses brought about must be taken from the net benefit of the organization. The usage of the Ministry announce above were to accentuation the social duty commitment of the SOEs. In expansion to the stressing of the commitment of the SOEs obligation, the substance of the pronouncement likewise contain the standard of technique of usage of the social associations with the end goal to instructing and conveying the monetary guides program. Monetary angle was assumed significant job on the execution of the CSR in the extent of SOEs. The wellsprings of the CSR store ought to be taken from the net benefit of organization's last year exercises it is obligatory as expressed on the Decreed of Minister of Small Medium Enterprises. It implies that the assets must be taken after the net benefit and not before benefit, it is in opposition to Law Limited Liability, the execution of the social ecological obligation is submitted to the particular organization which is likewise comprehensive established of sets of principles of the organization in light of the fact that the offer of State Own Enterprises not just posture by the administration. The Historical foundation of the Law no 19 of 1960 of State Own Enterprises Law put the five distinct sorts of State Enterprises under one single regulation5 with the end goal to encourage the organization of state endeavours. The target of the arrangement of state undertakings is differed. The express claim organization under the one resolution article 1 of Law No. 19 of 1960 states "the state endeavours is any undertaking the capital of which is State property of has a place with the State's Treasury, Express Own Enterprises is built up by the Government Direction.

II. Presenting the Nature of CSR in the Perspective of Legal Framework of CSR

Sharing advantage of abusing common assets is getting to be one of the key techniques to quicken the making of open welfare. Normally, the misuse of characteristic assets includes numerous partnerships, especially multinational organizations (MNC) and driving organization. Various concessions were conceded to outside financial specialists with the end goal to support the capital inflow and exchange innovation. The concessions additionally fused in numerous division, for example, common assets, estate and transportation. In a few nations contact among multinational and their home states were not in every case inviting, home states are mindful of the potential dangers of multinationals with respect to the neighbourhood economy, business and security approaches. The foundation of remote financial specialists organization results in a win-win benefit for the investor (proprietors of the organization) and home state. Investigation of characteristic assets at some point develop of air contamination, water contamination or both and colossal land gap and so on. The greater part of people groups especially in the create nations acknowledge that the ozone depleting substance emanation (GHG) discharge into the environment is as yet developing what's more, developing erratic changes to typical atmosphere design, having respect to the ecological harm, all of partners need to assume a noteworthy job in worldwide exertion to put a brake on further atmosphere changes. Carbon impression it's the compelling estimation, implies that the measurement of how much harm to the earth by method for GHG outflows. The
carbon impressions estimation is the measure of ozone depleting substances in units of carbon dioxides, delivered by human exercises. In condition of stream running dry, dropping lake and groundwater levels and species jeopardized due to tainted water that demonstrating of water contamination. Nearby with the carbon impressions the water impression demonstrates the connection that our day by day utilization of merchandise and the issues of water exhaustion and contamination exist. There are three segment of water impression;

1. The green water impression alludes to utilization of green water assets (rainwaters stockpiling in the dirt as dampness),

2. The blue water impression alludes to utilization of blue water assets (surface and ground water) and

3. The dim water impression alludes to contamination and is characterized as the volume of crisp water that is required to absorb the toxin stack dependent on existing surrounding water quality measuring.

A significant number of organization substantial purchasers of water, for example, a few mineral water makers (Aqua, Adest and neighbourhood mark organization), has directed many water evaluation. In the degree of government jobs as of late considering as government concern just, prerequisite to perform corporate social duty to organization is considered as devolution of social and ecological obligation from the legislature to the organizations. The idea of CSR is shift and particular a cutting edge need and issues that difficult to bound precisely, various of global association join legitimate qualities and extents of CSR standard while creating standard. Without standard lawful definition, execution of CSR tend to benefit code of behaviours of the organization, from that point forward numerous organizations in building up their own vital and strategy included social obligation issues. It is difficult without a doubt to adjust the enthusiasm between the investor of the organization and the partner, enthusiasm of investor whichever starts things out with the end goal to restore their venture as quick as could reasonably be expected, on the other path around home state in this see considered as partners has a commitment to protect the enthusiasm of socials life of the people groups. In term of social obligation exercises of the organization entanglement will develop when the issues between quest for the benefit on one hand and commitment to attempt social obligation then again. Corporate social duty that supposed CSR-as what Doreen McBarnet has composed this: CSR basically includes a move in the focal point of corporate duty from benefit augmentation for investors inside the commitment of law to obligation to a more extensive scope of partners, including shared issues, for example, assurance of condition, and responsibility on moral and also lawful commitments. It is move from main concern to triple primary concern, as it once in a while put, from benefits to individuals, planet and benefit for sure to benefit standard to refer to Shell International's social report.

In the missing of govern of law in the degree of execution of social duty seven standards of New Delhi Presentation could be presented as a fundamental law standards of social obligation. The seven standards of New Delhi Declaration
for example, pursues:

1. Coordinated, Sustainable Decision Making,
2. Partner Engagement,
3. Straightforwardness,
4. Predictable Best Practices,
5. reparatory Principle,
6. Responsibility and
7. Networks Investment.

III. Legitimate Frame Work of CSR in the Perspective of Indonesian National Law

An endeavour was made to put the commitment of CSR in the three legitimate premise, that is Law of Investment (Law No. 25 of 2007) Law of Limited Liability (Law No. 40 of 2007) and Law of State Enterprises (Law No. 19 of 2003). The Foreign/Domestic Put Enterprises which playing out their business in the field of investigation of normal assets constantly allowed benefit from the State. The nexus among financial specialist and State ought to be in the legally binding basis8, concession conceded by the State not exclusively to the speculation organizations, others organization likewise qualifies for get concession from the State. The hypothesis of established worldwide law standards is need provides for the home state to control of multinationals companies9, imply that each state has ideal to control MNC (multinational organization) exercises inside their locale. The legitimate setting of CSR in Indonesia establish of required perspective and deliberate viewpoint. Commitment to satisfy social obligation pursued by managerial authorize to non – consistence is sole intensity of arrangements. The adaptability approach given by the Law in condition absence of further arrangement, for example, what makes reference to in the article 74 p 4 (Law No. 40 of 2007), arrangement with respect to usage of CSR is submitted to the separate organization if there are no further arrangement pursues, implies that is organization permitted to profit their very own sets of principles as a standard of methodology in performing social obligation as long as the substance of the code not illegal in such manner believability of sets of accepted rules will reflecting execution of social obligation of the organization. Moreover the worldwide standard report of CSR execution of the organization, for example, GRI (Global Initiative Report, Generation 3)10 and ISO 26000 are worldwide standard that suited by a large portion of the organization in the world.11 Hence, with the end goal to gauge the CSR execution of the organization especially MNC whether GRI or ISO 26000 could be utilized as standard report. In surveying the implementation of run and control certain criteria, for example, pursues (Lo Fuller, the profound quality of Law 1964); law ought to be general, they ought to be declared, retroactive, justifiable, not opposing, not require past the capacity, they ought to remain generally consistent, they ought to be a compatibility between the laws as reported and their real administration,12 those criteria's ought to be
considered. In regard to the Investment Law, with understanding to the arrangement of CSR to both outside and household financial specialists, requirement of the law will inferred by making an inquiry what is the estimation of corporate social duty exercises, does the execution markers of social obligation of the financial specialists will be acknowledged in consistence to the law, there's ought to be sure worthy lawful standard and standard with the end goal to quantify the execution of social duty of the financial specialists exercises, willful methodology, for example, organization implicit rules existing can be profit as lawful standard and standards. Having respect to point of view of connections CSR with the law and open strategy has been hard to bind whether prescriptively or descriptively. In regard to the regulatory endorse to the rebelliousness, for example, specifies in the Investment Law and Law Constrained Liability Company arrangement to satisfy of CSR is a flat out commitment. Without further arrangements the organization have a tendency to do things simple, philanthropy and charity would be considered as social duties, for example, supporting social exercises of the people groups encompass the business area by giving certain measure of cash and numerous different things hence their exercises would be considered as goal to keep away from regulatory authorize than social duties on the loose. Arrangement of CSR, for example, makes reference to in State Own Enterprises Law is pursues by Minister Decree and Minister Direction. The methodology of usage is clear, tragically those arrangement just deliver to State Own Enterprises not to the privately owned business. Fundamental necessities in performing CSR is money related execution of undertakings, that is monetary past execution (earlier year) ought to be in the positive adjusts position, implies that State Own Enterprises in negative parity shouldn't performs CSR until the point when they achieve positive equalization once more. In the accepted procedures those arrangement affected the progressions of the program and developing an inquiry whether the requirement will mirror the accepted procedures or rather expect to invigorate to grow such best practices. For the looks for of the MNC (multinationals enterprise) organization that fall under Investment Law, there is no further arrangement to attempt CSR other than of what was states in the Law. As transnational organization, MNC ought to be fall additionally under Universal Law and as an outcomes they will benefit the International Treaties and International Agreement that is comprise of International Declaration as a consequences of International Summit in (Rio Brazil, Johannesburg South Africa and New Delhi India),as the fundamental standards with the end goal to go along the control. Meanwhile agreement in degree of CSR has been created, the scope of the agreement enveloping ecological and social issues that are pertinent enterprise for the most part, paying little respect to their size, area and topographical location. In regard to Limited Liability Company Law, request to satisfy natural social duty constrained to the organization which performs in the field of common assets however not to the organization whose performs others exercises thus in this respect the inquiry will inferred, in the degree of CSR commitment does the Limited Liability Company Law part of Investment Law. The clashing standard between two arrangement will rise vulnerability since interest to satisfy CSR as notices in the Venture Law be comprehended as general arrangement to all sort of Remote/Residential Contributed Undertakings, in the other route round Restricted
Risk Organization Law, point of confinement to organization which perform in the field of common assets as it were. For the looks for, if there is no commitment to embrace of natural social duty, for example, to the Restricted Liabilities Organization at that point will rise question again does the organization have a social obligation. Concerning situating approach, the organizations can be viewed as shut framework working freely to serve its proprietors or despite what might be expected as a major aspect of triangle of market, state and common society.16 As a major aspect of the common society, execution of the Organization wind up vital issue, yield of the organization because of business exercises, ordinarily coming about of the results of business in the public arena which is incorporating result as far as business affect. Result of the organization is a component of execution markers everywhere from that point forward in any case whether there is an commitment to attempt the CSR or not, execution of organization would be estimated from their social results.

Conclusion:

Albeit lawful essential of CSR in Indonesia is proclaimed, however direction to attempt the social duty as makes reference to in the three Laws, for example, Venture Law, Constrained Risk Organization Law and Express Claim Endeavours Law, rather to addresses to the particular organization which is identified with the kind of the organization. From the three lawful premise notice above, as it were Express Claim Endeavours Law pursued by the control in regards to the execution of undertaking corporate social duty. As far as requirement the twofold standard of estimation rose up out of the covering of the arrangements. In addition in the event of restricted risk organizations, on the off chance that they are whether not performs in the field of regular assets and not enlisted as Remote/Household Contributed Ventures, by the law there will be no commitment to undertaking corporate social obligation by any means. The execution of social obligation of the organization is extremely significance, in regard to Clergyman Express Possess Ventures Announcement with respect to the usage of Corporate Social Duty, the organization which permits to performs of CSR is subject to the past execution of the Express Possess undertakings. The past execution of the organization implies is recognized from the money related adjusts, for the Express Possess Undertakings whose demonstrate negative equalization in the most recent years implies those Ventures not oblige to do the CSR. As a result on the off chance that they are nonappearance in performing of social duty, the execution of CSR of the organization is affected at last impact the execution of the organization all in all. In accordance with the Law of Restricted Risk Organization as states in Article 74 p 4 the usage of Natural Duty is submitted to the particular organization, the jobs of the (OECD Rule for Multinational Undertakings, the ten standards of Joined Country Worldwide Conservative, the ISO 26000 Direction and Standard on Social Duty, the ILO Tri-Partite Revelation Standards Concerning Multinational Ventures and Social Approach, and the Assembled Country Controlling Standards on Business and Human Rights), in executing of CSR in Indonesia is extremely key and prevailing in light of the fact that a large portion of the MNC and driving organization benefit the essential main above.

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