

# CORPORATE **Dossier**

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## Sustainable **Future**



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Dear Reader,

The objective of Corporate Dossier is to keep readers aware of happenings, news, trends that affect finance and economy. We also carry information related to growing business and helping in shaping corporate strategies.

A sustainable future where people can meet their needs without compromising the ability of people in the future to meet their own needs, such practices help countries grow in ways that adapt to the challenges posed by climate change.

Sustainable development encourages us to conserve and enhance our resource base, by gradually changing the ways in which we develop and use technologies. These include social progress and equality, environmental protection, conservation of natural resources and stable economic growth.

Other topics included are Sustainability in India, Conversations around sustainability have intensified greatly in recent years, Concept of sustainable development and judicial overview, Business responsibility and sustainability report (BRSR)

If you feel like contributing towards the next issue on any relevant topic, please do so. You can send the article to [info@uja.in](mailto:info@uja.in)

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## SUSTAINABILITY IN INDIA

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**I**n 2015, the UN General Assembly adopted the agenda “Transforming our world: the 2030 Agenda for Sustainable Development” in 2015, which incorporated seventeen Sustainable Development Goals (SDGs), to be achieved by 2030.

### **Role of Niti Aayog**

In India Niti Aayog is the nodal agency for achieving and monitoring Sustainable Development Goals. The SDG Vertical, in collaboration with Union Ministries and States/UTs coordinates and monitors the Sustainable Development Goals. The Vertical works closely with key stakeholders—including the Government, civil society, private sector, academia, think tanks, research organisations, and multilateral organisations—to fast-track the achievement of SDGs in the country.

The SDGs aims at ending poverty, improving health and education, reducing inequality, tackling climate change and preserving oceans and forests. Each Sustainable Development Goal has 8–12 targets, and each target has 1–4 indicators that measure progress in reaching the targets. India has one of the youngest populations and is the third largest consumer of energy, with 80% of the demand met by coal, solid biomass and oil.

### **India's efforts**

#### ***Electricity***

India's efforts in renewable energy generation and consumption has been impressive. The Ujala scheme by the India govt has led to the adoption of LED bulbs and thus saving power and reduction of household electricity bills. The country's solar installed capacity was 48,556 GW as of 30 November 2021. The Indian Government had an initial target of 20 GW capacity for 2022, which was achieved four years ahead of schedule. Other achievements include progress in the areas of health, energy, and infrastructure. Since 2019, India's overall score across SDGs has gone up from 60 to 66 in 2021 due to nation-wide improvement in 'clean water and sanitation' and 'affordable and clean energy' respectively.

#### ***Renewable energy***

India has installed 46.25 GW of grid-connected solar energy and has set a target to achieve 40% national energy through renewable sources by 2030. India aims to become a net-zero economy by 2070 and has set a target of installing a non-fossil energy capacity of 500 GW by 2030, Prime Minister Narendra Modi said at the COP26 Summit in Glasgow, Scotland.

### **Marine**

To reduce environmental pollution, Indian ports have started multiple initiatives such as driving solar and wind energy adoption, Swachh Bharat Abhiyan, Swachh Sagar portal for waste management, etc. In order to be in line with best-in-class practices, MIV 2030 has identified key interventions like increasing usage of renewable energy, reducing air emissions, optimizing water usage, improving solid waste management, zero accident safety program, and centralized monitoring system identified to further bolster India towards leading the world in safe, sustainable and green ports.

### **Plastics**

The Environment Ministry has issued draft rules that mandate producers of plastic packaging material to collect all of their produce by 2024 and ensure that a minimum percentage of it be recycled as well as used in subsequent supply. It has also specified a system whereby makers and users of plastic packaging can collect certificates — called Extended Producer Responsibility (EPR) certificates — and trade in them.

Only a fraction of plastic that cannot be recycled — such as multi-layered multi-material plastics — will be eligible to be sent for end-of-life disposal such as road construction, waste to energy, waste to oil and cement kilns, and here too, only methods prescribed by the Central Pollution Control Board will be permitted for their disposal.

The circular economy has a unique market opportunity upwards of \$4.5 trillion by 2030. It needs collaboration, R&D, capital and a renewed business model.

### **India is the first Asian country**

India has become the first Asian country to develop a plastics pact - to bring together leading businesses at a national level to make commitments for building a circular system for plastics. The India Plastics Pact (IPP) has launched as a collaboration between: WWF India, the Confederation of Indian Industry (CII). The pact is supported by UK Research and Innovation (UKRI) and WRAP, and endorsed by the British High Commission in India.

### **The circular economy**

Transitioning from a linear to a circular economic model is critical to achieve the SDGs. In a circular economy waste does not exist. Products are recycled. Indians are very conscious of waste and have always been thrifty. Electronic items are repaired and their lives extended. Old newspaper, books, utensils etc. are sold off to scrap dealers to be reused or recycled. Drying clothes in the sun, handwashing of dishes, have bucket baths are some of the practices that Indians follow zealously.





### *ESG and corporate India*

The Securities and Exchange Board of India (SEBI) issued a circular implementing new sustainability-related reporting requirements for the top 1,000 listed companies by market capitalization. Corporate environmental, social, and governance (ESG) commitments and programs have surged in recent years. 88 percent of the public companies have ESG initiatives. Investors are creating new ESG funds and have reached an asset base of Rs 9,900 crores.

Companies benefit by ESG initiatives in driving top line growth, decreasing costs and optimizing investments.

Research has indicated the consumers feel happy when they buy sustainable products or products from companies that are known for their sustainability practices. The younger population are demanding accountability from brands when it comes to impact on the environment.

Most public companies have an ESG program which are involved in several issues like farmer welfare, skill development, education, rural upliftment etc.



## CONVERSATIONS AROUND SUSTAINABILITY HAVE INTENSIFIED GREATLY IN RECENT YEARS.

**Darshana Navalakha**

*Dy. Manager – Tax Analyst*



### What is Sustainability?

**I**t can be broadly defined as **managing resources without depleting them for future generations.**

Industries, companies and businesses are major contributors to environmental degradation. Taxation regime thus is one of the methods which are used by the sovereign in order to curb activities which result in the pollution or pollutants which are harmful for the environment. Thus, in order to protect the degradation of environment and curb activities which result in polluting the environment, Governments worldwide are taking initiatives by levying different forms of taxes.

The Government of India has proposed to levy 'green tax' in order to curb the degradation of the environment and promote the 'clean air' objective.

### What are Green Taxes?



Environmental taxation or pollution tax, popularly known as green tax, refers to the duty imposed on goods and activities that cause environmental pollution with the objective of internalizing externalities”.

In India, Green Taxes target three main areas:

- Differential taxation on vehicles in the transport sector purely oriented towards fuel efficiency and GPS-based congestion charges;
- In the energy sector by taxing fuels which feed into energy generation;
- Waste generation and use of natural resources.

### Different types of green taxes

#### A. Green tax on vehicles

The Central Government has approved a proposal to levy 'Green Tax' on old vehicles which are considered to be polluting the environment. As per the proposal, transport vehicles which are older than 8 years could be charged 10 to 25 percent of road tax at the time of renewal of fitness certificate. For personal vehicles, the tax would have to be paid at the time of mandatory renewal of registration certificate after 15 years. The tax has been proposed to dissuade people from using vehicles that damage the environment as well as motivate them to switch to new vehicles and reduce overall pollution level.

A press release<sup>1</sup> by the Ministry of Road Transport and Highways states that the revenue collected from the Green Tax will be kept in a separate account. It shall be used to tackle pollution and setting up state-of-art facilities for emission monitoring in states.

Additionally, that the Transport Minister has also approved a policy of deregistration and scrapping of vehicles which are above 15 years in age that are owned by government departments and PSUs. This policy is slated to come into effect from 1 April, 2022. Also, a

1 <https://pib.gov.in/PressReleasePage.aspx?PRID=1692228>



broader scrappage policy for commercial vehicles is likely to be announced.

**B. Carbon Tax**

It is a form of Pollution Tax. It levies a fee on the production, distribution or use of fossil fuels based on how much carbon their combustion emits. It is based on the 'polluter pay' principle. The ultimate goal of a carbon tax is to reduce and eventually eliminate the use of fossil fuels.



Imposition of the carbon tax will make fuels more expensive thus encouraging utilities, businesses and individuals to reduce the use of fossil fuels. The imposition of Carbon Tax is expected to achieve the following-

- Fuel consumption will be reduced.
- Increase energy efficiency.
- Alternative renewable sources of energy will become more competitive.
- All the above will lead to lowering the emission of greenhouse gases.

India does not have a price on carbon, though it has been implemented in indirect forms through mechanisms like a coal cess which is Rs. 400 per ton of coal produced and imported.

**C. Infrastructure cess**

The infrastructure cess is a type of tax imposed on the mass production of vehicles. Motor vehicle manufacturers are required to pay this tax to the government. The introduction of this cess in 2016 forced the vehicle manufacturers to increase the price of their offerings.

The applicable tax rate depends on the capacity and type of vehicle produced by the manufacturer.

| Sr. No | Type of Vehicle   | Infrastructure Cess |
|--------|---|---------------------|
| 1.     | LPG/CNG/Petrol-powered motor vehicles with engine capacities of up to 1,200cc and overall length less than 4 meters | 1%                  |
| 2.     | Diesel-powered motor vehicles with engine capacity of up to 1,200cc and overall length less than 4 meters           | 2.5%                |
| 3.     | Other vehicle categories with engine capacities of above 1,200cc and length above 4 meters                          | 4%                  |

The cess collected by the government is used for the development and maintenance of national highways, rural and state roads, railway projects, improving railway safety, and other infrastructure projects in sectors like energy, communication, water and sanitation, and transport.

**D. Pollution tax/environment compensation charge (ECC)**

There is no nation-wide pollution tax currently being enforced. The National Green Tribunal (NGT) initiated an Environment Compensation Charge (ECC) to rein the rising automobile emissions in New Delhi. Backing the NGT, the Supreme Court, in<sup>2</sup>October 2015, passed an order on levying of ECC on light commercial vehicles (Rs. 700) and three-axle vehicles (Rs. 1300). According to reports, emissions from trucks account for over 1/3rd of air pollution in New Delhi given that around 40,000 trucks ply in Delhi on a daily basis while around 13,000 use the capital city as a transit route. Commercial vehicles which enter the city of Delhi are responsible for 22 per cent of nitrogen oxide and 30 per cent of particulate matter, according to a study by Centre for Science and Environment. Intriguingly, 40-60 per cent of heavy trucks and 23 per cent of commercial vehicles enter Delhi to save on toll charges. The environment compensation charge is levied on heavy duty commercial vehicles and not on private cars. Also, vehicles which carry essential commodities such as oil and food articles and ambulances do not have to pay the environment compensation charge.

<sup>2</sup> [M.C. Mehta v. Union of India, [2015 SCC OnLine SC 968](#), decided on 09.10.2015]

The aforesaid paragraphs elaborate the taxes imposed by the Government in order to prevent hazardous activities by industries in order to protect the environment. Similarly, the Government has also provided incentives to industries and individuals in order help reduce the carbon footprint and promote a clean environment. Let's look at there in the below paragraphs:

### **A. Carbon Credits**

Carbon Credits is an incentive given to an industrial undertaking for reduction of the emission of GHGs (Green House Gases), including carbon dioxide which is done through several ways such as by switching over to wind and solar energy, forest regeneration, installation of energy efficient machinery, landfill methane capture, etc.

Every Industrialized nation has been given certain quota of units; the quantity of the initial assigned amount is denominated in individual units, called Assigned amount units (AAUs), which is equivalent to emission of 1 Ton of CO<sub>2</sub> or equivalent emissions of other greenhouse gases like Methane, Nitrogen oxides etc. and these are entered into the country's national registry.

Now if a country doesn't use up its entire allowance of credits, it can either save it or exchange it for money or give it to some country which has exceeded its limit. If a country uses up its entire limit, it has to buy credits from another country that has not used up its entire allowance.

Some of the Carbon Projects in India include<sup>3</sup>

### **Jindal Vijaynagar Steel**

The Jindal Vijaynagar Steel has recently declared that by the next 10 years it will be ready to sell \$225 million worth of saved carbon. This was made possible because - their steel plant uses the Corex furnace technology which prevents 15 million tonnes of carbon from being discharged into the atmosphere.

2 <https://www.investindia.gov.in/team-india-blogs/carbon-financing-india>

### **Powerguda in Andhra Pradesh**

The village in Andhra Pradesh was selling 147 tonnes equivalent of saved carbon dioxide credits. The company has claimed having saved 147 MT of CO<sub>2</sub>. This was done by extracting bio-diesel from 4500 Pongamia trees in their village.

### **Handia Forest in Madhya Pradesh**

In Madhya Pradesh, it is estimated that 95 very poor rural villages would jointly earn at least US\$300,000 every year from carbon payments by restoring 10,000 hectares of degraded community forests.

#### **Benefits Under the Income Tax Act 1961**

Under Income Tax Act, 1961 new section 115BBG to provide that where the total income of the person includes any income from transfer of carbon credit, such income shall be taxable at the concessional rate of 10% (plus applicable surcharge and cess) on the gross amount of such income.

No expenditure or allowance in respect of such income shall be allowed under the Act.

#### **B. On Purchase of Electrical Vehicle (EV)**

An individual taxpayer purchasing an EV will get a deduction of Rs. 1.5 lakhs under section 80EEB of the Income Tax Act, 1961 on interest paid on loan taken to buy the EV.

Further, the government has reduced the GST rate of EVs from 5 to 12 percent.. In addition to this, EVs are exempt from road tax and registration costs and also exempt from Green taxes.

Environment pollution is an issue that all political leaders in the world wide are worried about. The effects of global warming are becoming increasingly visible. The government benefits from taxes raised by tax payers, however it is of absolute importance that the taxes so collected be used for the purpose for which they are collected. Apart from this, the need of the hour is also to educate the masses about the harmful effects of degradation of the environment , because at the end, the masses are always *are a part of the solution and not part of the pollution.*





## CONCEPT OF SUSTAINABLE DEVELOPMENT AND JUDICIAL OVERVIEW

**Ashwini Athale**

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### Introduction

**T**he concept of Sustainable Development was first coined in the year 1972 in the Stockholm declaration. It was stated in the declaration that “Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being and he bears a solemn responsibility to protect and improve the environment for present and future generation”.

The Concept was given a concrete shape in a report by world commission. A definition of Sustainable Development was offered by World Commission on Environment in a report which was known as 'our common future'. It stated that Sustainable Development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs. Sustainable Development is a concept of economic growth wherein the use of resources aim to meet human needs while preserving the environment that would help to meet the needs of not only the present, but also future generations. The report was known as 'Brundtland report' as the commission was presided over by Norway Prime Minister, Ms. G.H. Brundtland.

### National Green Tribunal

In the recent past, a special body was constituted in India to specially look over the matters relating to environment and ancillary issues. The National Green Tribunal (NGT) is that statutory body instituted for speedy disposal of disputes relating to environmental protection and conservation of natural and conventional resources. The need for such tribunal was felt in the year 1986 by the Supreme Court in the light of the Oleum gas leak case. The NGT came into existence in the year 2010 by virtue of the National Green Tribunal Act, 2010.

#### Objectives of the Tribunal:

As mentioned above, the NGT was instituted with major focus on conservation of natural resources and protection of environment. The major objectives for constituting the tribunal are as given below:

- To ensure strict implementation and compliance of the laws relating to environment.

- To ensure conservation and protection of forests and animals.

- To ensure prevention of any action which might cause harm to the environment.

- To spread awareness with regards to the various environment related issues and laws governing the protection and conservation of the environment and resources.

Role of NGT and its orders would define the future framework for implementation and determination of the environmental laws

### The Role of Indian Judiciary

The Indian Judiciary has played a crucial role in shaping the applicable laws and setting precedent for protecting the environment and aiming towards a sustainable future.

To have a sustainable future, it is necessary that the present provisions governing the use of resources are in place and effective to cater to the need of people at large.

There are various legislations in India laid down for protection of the environment; the major acts are as under:

- Water (Prevention and Control of Pollution) Act, 1974
- Water (Prevention and Control of Pollution) Cess Act, 1977
- Air (Prevention and Control of Pollution) Act, 1981
- The Wildlife (Protection) Act, 1972
- The Forest (Conservation) Act, 1981
- Environment (Protection) Act, 1986

Right to environment is a fundamental right recognized and protected under Article 21 of the Constitution of India. Along with rights, duties are also laid down in the Constitution. Article 28 lays down that “The State shall endeavour to protect and improve the environment and to safeguard the forest and wildlife of the country.”

Article 51 A (g) casts duty upon the citizens of India stating, “It shall be duty of every citizen of India to protect and improve the natural environment including forests, lakes, and wildlife and to have compassion for living creature.”

The right to healthy environment is protected under the constitution of India so is the right to development. Every person is entitled to economic, social, cultural and political development. Initiatives have been taken to maintain the balance between the right to clean and healthy environment and right to development.

There must be a proper balance between the development and the environment for it to co-exist without adversely affecting each other. The Indian Judiciary has played a crucial role in the field of environmental law through Public Interest Litigations. The Apex Court has elaborated the scope of Article 21 in various cases. The scope of right to life guaranteed under the Constitution of India has been enlarged from time to time including right to clean and safe environment, access to natural resources etc. coupled with right to development.

In plethora of judgements, the Indian Courts have observed and supported the concept of sustainable development.

In the case of *Vellore Citizens Welfare Forum v. Union of India*<sup>1</sup> before the Hon'ble Supreme Court, it was observed that the traditional concept wherein development and ecology are opposed to each other is

1 A.I.R. 1996 S.C. 2715

no longer acceptable. Sustainable development is the answer. Sustainable development is a balancing concept between environment and development.

In a landmark case of *M.C.Mehta v. Union of India*,<sup>2</sup> known as **Taj Trapezium case**, the Supreme Court ordered the 292 Industries to switch over to natural gas for natural fuel which were causing the pollution in Taj Trapezium Zone. The court for the first time declared that it is to be remembered that natural resources should not be exploited in one generation.

In the case of *Municipal Council, Ratlam v. Shri Vardichand & Ors*,<sup>3</sup> issue of sanitation came before the Supreme Court under section 133 of CrPC. The Hon'ble Court recognised that right to clean & healthy environment is an inalienable right under article 21 of the Constitution. The Supreme Court also addressed the problem of poor sewage & sanitation scheme.

The Supreme Court in the case of *Indian Council for Enviro Legal Action v. Union Of India*,<sup>4</sup> observed that both development and environment should go hand in hand. There should not be development at the cost of environment and vice versa. But there should be development while taking due care and ensuring the protection of environment. Sustainable development is a balancing concept between environment and development. It is a strategy for continued development without causing harm to the environment.

In another matter popularly known as *Doon Valley quarrying case (Rural litigation & entitlement Kendra v/s State of U.P.)*,<sup>5</sup> the residents of Doon valley filed Writ petition against illegal limestone quarrying & the mining that caused harm to ecological diversity and beauty of Massoorie hills. The Apex Court directed to stop illegal quarrying in the Massoorie hills.

In the famous case of *Narmada Bachao Andolan v/s Union of India*, the Supreme Court observed that Sustainable Development means what type or extent of development can take place, which can be sustained by nature/ecology with or without mitigation.

2 A.I.R. 1980 SC 1622

3 (1996) 5 S.C.C. 281

4 A.I.R. 1988 SC

The court also ordered that Environmental Awareness had become a compulsory subject in all educational institutions from school to university all over the country. Accordingly, environmental awareness had become a compulsory subject in schools and colleges in India.

The Judgements passed by the Apex Court would set precedents for implementation of the laws for a sustainable future.

With rising of awareness about importance of preservation and conservation of environment across the globe, countries around the world are taking initiatives to preserve the environment. A sustainable future is dependent upon collective efforts of all the countries and contribution towards strong laws and its implementation. India has been actively implementing its laws and setting precedents to ensure preservation of environment and encouraging development without adversely affecting either of the factors.



## BUSINESS RESPONSIBILITY AND SUSTAINABILITY REPORT (BRSR)

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**I**n 2012, SEBI mandated the top 100 listed entities by market capitalisation to file Business Responsibility Reports (BRR) as per the disclosure requirement from the 'National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business' (NVGs).

BRSR is from an Environmental, Social and Governance (“ESG”) perspective and intends to enable businesses to engage more meaningfully with their stakeholders. It encourages businesses to go beyond regulatory financial compliance and report their social and environmental impacts.

### Sustainability Reporting

Sustainability reporting is the disclosure and communication of environmental, social and governance (ESG) goals—as well as a company's progress towards them.

The benefits of sustainability reporting are building good corporate image and reputation, building consumer confidence, increased innovation, and even improvement of risk management.

The reporting will contain disclosures about material ESG risks and opportunities, approach to mitigate or adapt to the risks, along with the financial implications of the same; sustainability-related goals, targets and

performance; environment-related disclosures, covering aspects such as resource usage (energy and water), air pollutant emissions, GHG emissions, efforts to transition to a circular economy, waste generated and waste management practices, bio-diversity; social-related disclosures, covering its workforce (covering gender and social diversity, median wages, welfare benefits, etc.); communities (covering social impact assessments, corporate social responsibility, etc.); and consumers (covering product labelling, product recalls, and consumer complaints in respect of data privacy and cyber security).

### Environmental, Social, and Governance Goals

Environmental, social, and governance (ESG) goals are a set of standards for a company's operations that force companies to follow better governance, ethical practices, environment-friendly measures and social responsibility. Environmental criteria consider how a company performs as a steward of nature. Social criteria examine how it manages relationships with employees, suppliers, customers, and the communities where it operates.

### Responsible Business

The philosophy of responsible business is based on the principle of business being accountable to all its stakeholders towards global developments which are increasingly seeking businesses to be responsible and sustainable towards their environment and society.

In light of ever-increasing global challenges relating to climate change, environmental risks, growing inequality, etc., business leaders have been compelled, and have also found it to be in their interest, to reimagine the role of businesses in the society and not view them merely as economic units for generating wealth.

The performance of a company must be measured not only on the return to shareholders, but also on how it achieves its environmental, social, and good governance objectives.

