Training and Development Prof. S. Srinivasan Vinod Gupta School of Management Indian Institute of Technology, Kharagpur

Module - 10 Lecture - 47 Legal Aspects of Social Responsibility

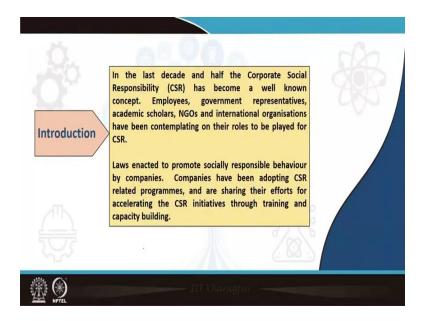
Welcome to lecture number 47. This is the 2nd lecture of this particular module, module 10 and in the previous lecture we discussed about the social responsibility, corporate social responsibility and we also discussed various types and we you know how what type of activities to be carried out. In today's lecture were going to discuss about Legal Aspects of Social Responsibility.

So, we will also discuss about what are the you know actions of a company during a training programme that will warrant a legal action on a company and we will also discuss about key specific sections that relate to social responsibility activities of a company what are the requirement and what the company has to do comply with as per the legal provisions or a legal framework. So, let us get into the lecture.

(Refer Slide Time: 01:13)



(Refer Slide Time: 01:15)

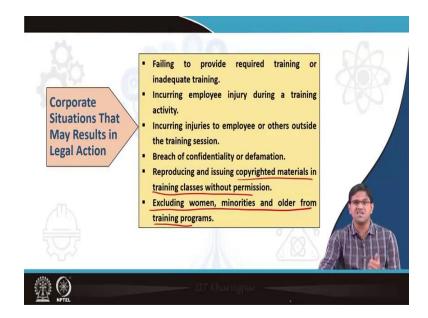


So, as we are talking about social responsibility, we found that in the past two decades the concept of corporate social responsibility become a well-known concept among the corporate and business houses and employees, government agencies academic scholars, non-government organizations, international organizations are been contemplating on the roles to be played for the CSR, they all talking about ok.

How they can also engage in you know formulating an better delivery of these corporate social responsibility activities and we also found that is law has been enacted as I was saying in the previous lecture a companies act 2013 which actually mandated to promote socially responsible behaviour among the companies and companies also been adopting CSR related programmes and their sharing their efforts for accelerating the CSR initiatives through training and capacity building of their employees also.

So, they it is not only about you know investing money on some activities, they also spend money in you know engaging their employees through a training and capacity building activities to deliver these better CSR activities.

(Refer Slide Time: 02:20)



Now, we are going to discuss about some of the situation or instances in which during a training program what type of an activities when the company does which will you know warrant some of the legal actions. So, if a company during a training program if a company failing to provide a required training or inadequate training and it is it will invite a legal action on a company. So, it is a, you know responsibility of a company to provide the required training program.

So, if you fail to provide required training program or an inadequate training program because of that resulting in accident in a workplaces, that will warrant legal action on the employees. So, incurring employee injury during a training activity when you are conducting a training activity, if there is any injury which are caused during the training activity means it is the responsibility of the company that will you know lead to a legal consequences on one organizations.

And of course, incurring injuries to employees and other outside the training session and breach of any confidentiality and deformations during a training program if you have to follow certain confidentiality about the product or about the you know intellectual property rights or about you know specific identities of the employees or a specific you know revelation about specific instances or aspects of the particular product or services being used part of the training program.

So, that will result in a breach of confidentiality or a defamation accusing somebody or maybe talking about bad about the other companies or brand or specific things which will invite a defamation and reproducing or issuing the copyrighted materials in training classes without a permission.

Imagine in a training sessions we always find lot of materials being circulated. So, those materials have to do not violate a copyright violations in case if you wanted to use certain materials, you have to buy the material and then with the permission only you should reprint the material. For example, many training programs use materials from you know Harvard business schools or various other forums or from a book materials whatever it is.

When you wanted to do it you have to get a copyrighted permission to copy and then circulate among the employees who are participating in a training program and in case if an organizations consciously exclude women or minorities or older people from a training program it is actually a kind of a discriminatory activity from an organization that will also invite a legal action on the organization.

So, which is an offence if an organization consciously exclude the women and minorities and other you know older employees in participating in a training program.

(Refer Slide Time: 05:03)



And if they also fail to ensure equal treatment during a training program, we know that you know during a training program you will find a different sections of the employee maybe participating and then even diverse employees in terms of a gender or in terms of the position or in terms of the race or the you know ethnicity of when we when the training being conducted organization has to ensure that they are fairly treated equally treated during the training program.

There is no exclusion for certain sections of the people during a training program, then if that is that will result in a legal action to be taken against the company if there is a found a discriminations when during the training program and requiring employees to attend training programs that they find offensive in case there are training programs with an employee feel that you know that there is an offensive in nature.

And if you coerce employees to participate in a training program which they find which is offensive then it is again a violation from the part of an organization. You cannot force an employee if they he or she finds something offensive for instance maybe on a religious sentiments where you are asking them to participate in a specific training program which hurt the sentiments of a specific sections of the society.

If they refrain from not want to attend if you force them to participate in those training program which is again a violations which will warrant a legal action on the organization.

And revealing any discriminatory information during a training sessions do not talk about insensitive information's and all you know being you know insensitive towards the you know discriminatory aspects of the information being shared about the specific community specific society specific group in the society.

Organization has to ensure that you know during a training program no such activities been carried out or no conscious effort been made by the trainer in creating this kind of a discriminatory information's among the employees.

In case if they do, so that will result in an you know legal action on the company on the trainer on an expert who conducts the training program and not accommodating trainees with the disabilities do not include the people with you know physical disabilities or

people you know physically challenged employees, if you are excluding them a part of the training program then it also amounts to a violation and it will also you know lead to a legal action to be taken on in an organizations.

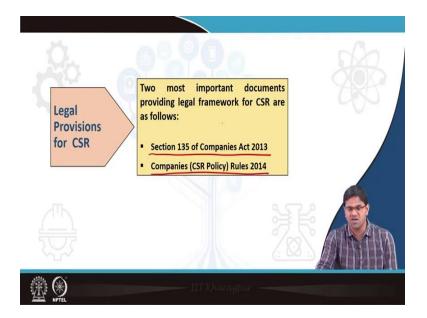
And incorrectly reporting the training expenses or failing to report training reimbursement as income. So, these all will lead to you know legal actions that can happen on an organizations with the related to a training aspects in an organizations.

Now, having discussed about what are the instances, we have been discussing about what are the possible instances in a training program or in a training activity in an organization that can actually lead to a legal actions, legal action to be taken on the employees when we talk about you know discriminatory information's excluding women, disability, disabled employees or minorities or we are talking about not reporting the training expenses or you know without the consent using the materials we you know copyrighted materials during the training sessions, which all relate leading to a legal action on an organizations.

So, these are all the instances which might result to legal actions when we are talking about a training program. So, meaning that organization has to be conscious enough to understand you know be aware about all these instances can occur during the training program which will unnecessarily lead to a legal complications and also it is not only about a legal complication, it will also impact the brand image of an organization.

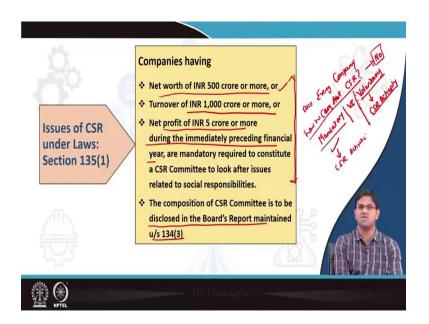
So, as an organizations you are have to behave responsibility and you are trying to attract the better investors, you want to attract better employees when you engage in these kind of an exercises or activities during a training program which will impact your organization in a long run.

(Refer Slide Time: 09:10)



Now, we having discussed about those now we are coming on to the legal you know provisions which are mandator for a corporate social responsibility. So, what are those legal you know framework which mandates CSR activity, which is corporate social responsibility activities under section 135 of Companies Act 2013 and it also listed down the company CSR rules CSR policy rules in the year 2014. So, these two are governing the corporate social responsibility activities of an organization.

(Refer Slide Time: 09:45)



Now, let us talk about which company or which are the entities or organizations are required are mandated by the corporate social responsibility activities. Now let me give more insight in this particular instance. If I ask a question does every company does every company have to do CSR activity carry out CSR?

If you ask this question it is no, which I am talking about from the legislative perspective. If you ask a question does every company have to carry out have to carry out a CSR activity if you ask no. Which are the companies are mandated? Now we are talking about mandated see a mandatory versus voluntary.

See if you go in the perspective of voluntary yes. Every organization can voluntarily engage in CSR activity nobody stops and we already discussed about lot of benefits of CSR activity. You will attract better employees, you will be having a better brand image, building reputations, you will have better investors, you will be rated as a socially responsible company you have lot of other benefits.

Now, it is when we are voluntarily are allowed to do, but what are the companies which are mandator to do CSR activity, has the question relies here. So, as I said is it mandatory for every company to do no, but there are some groups which are mandated that yes, they have to do. Who are those company they have to I you know engage in CSR activities. If your company's net worth is 500 crore or more Indian rupees or if your turnover is 1000 INR crore or more or if your net profit is 5 crore Indian rupee or more during a, immediately preceding financial year.

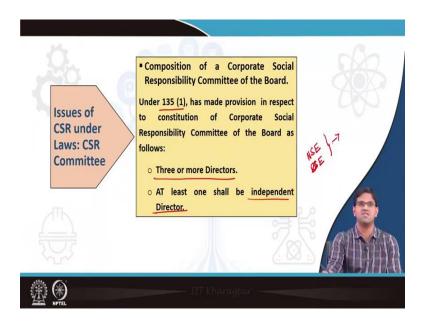
Then you are mandatory required to constitute a CSR committee and carry out a CSR activities ok. So, this qualifies yes if your company is one among this. We are having a net worth of 500 crore or more or your turnover is 1000 crore or more or your net profit is 5 crore or more in a preceding financial year.

Then you are actually become mandated to implement CSR carry out CSR activities. In case if you are not falling on this category it becomes voluntary in nature. You are not mandatory to do, but you are voluntarily you can do CSR activity you know you nobody going to stop you to carry out a CSR activity.

So, now when it says you know CSR committee has to be formulated and then to deliver a carry out the CSR activities also. So, the CSR committee has to be you know formed composition has to be formed and is to be disclosed in the board report as maintained under section 134 of the company's act.

So, how are you for composing or formulating in the CSR committee is to be disclosed in the Board's report means the board of directors report as per the under one section 134 of 3 of Companies Act 2013.

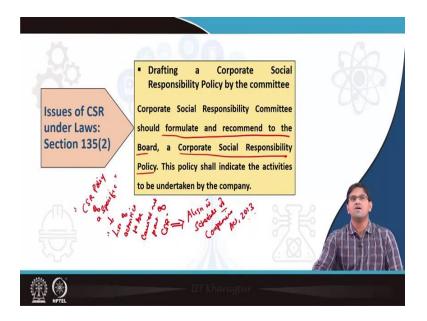
(Refer Slide Time: 13:06)



Now, what are the you know conditions which are related to the formulation of a CSR committee, which we discussed in the previous lecture as well. When you wanted to make up you know CSR committee in an organizations under section 135 of 1 there is a provision to be made to form the CSR committee of the board which is at least 3 or more directors out of this one person shall be an independent director if you recollect it.

We discussed this in the previous lecture as well. Where in discussed about in case if you are not listed down in NSC or BSC which is the National Stock Exchange or Bombay Stock Exchange you are excluded from not to have an independent directors ok. In case if your company is a foreign company you should have a member, who are a resident of India for the purpose of serving notices and the other documents within India ok.

(Refer Slide Time: 14:03)

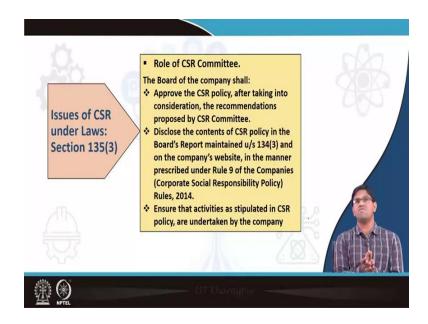


Now, so drafting a corporate social responsibility policy with the committee. So, the CSR committee who are formulated they have to they are responsible to formulating and recommend to the board of directors, a corporate social responsibility policy of their specific company. When you are talking about CSR policy this is the CSR policy of a specific company of a specific company.

So, the CSR board the farm board has to formulate and recommend a CSR policy for this specific company and this policy what should indicate? It should indicate list of activities to be carried out ok, carried out a part of CSR ok, that has to be there in the CSR policy of a specific company.

When a CSR board formalise a CSR policy, they have to indicate the list of activities which will be carried out part of the CSR activities, but again this should be in alignment in align with schedule 7 of Company's Act 2013 fine.

(Refer Slide Time: 15:22)

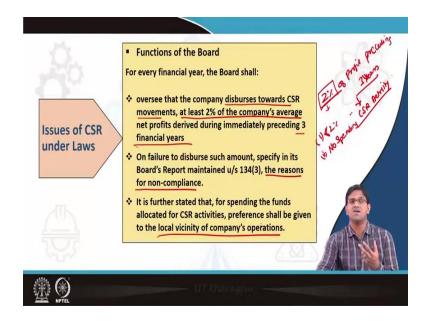


Now, we will talk about a role of the CSR committee. So, the CSR committee the board of the CSR committees, responsibilities to know approve the CSR policy after taking into consideration and the recommendation proposed by the CSR committee and disclose the content of CSR policy in the board's report.

You have to you know it is a role of this a board to disclose the content of CSR policy in report boards report under section 134 of 3 on the company's website. You have to mention this in a company website in a manner which are prescribed under the CSR rule policy of 2014.

So, as listed down you have to you know report this in your company's website about your CSR policy and ensure that you know activities are stipulated in CSR activities are undertaken by the company. It is not about you formulate a policy and list down the activities, but you should also carry out those activities by the company that is very important.

(Refer Slide Time: 16:21)



Then comes functions of a board. So, what are the you know functions of the board? For every financial year the board shall oversee the company disperses towards CSR moments at least 2 percent of their company's average net profits during immediately preceding 3 financial year.

Meaning is that when you are talking about the net profit of a company. So, on this 2 percent of their profit 2 percent of the profit for preceding 3 years ok, 3 years has to be spent on CSR activity.

So, it also says how much has to be spent? At least 2 percent of their profit of the preceding 3 financial year has to be spent. So, the board has to ensure that whether the company spends 2 percent of their profit in the preceding 3 years on CSR activities which are listed down by the company.

In case if they fail to do so, meaning that if they are not spending let us say you know they are spending less than 2 percent or no spending at all can be either case is possible right, one situation is less than 2 percent another is no spending.

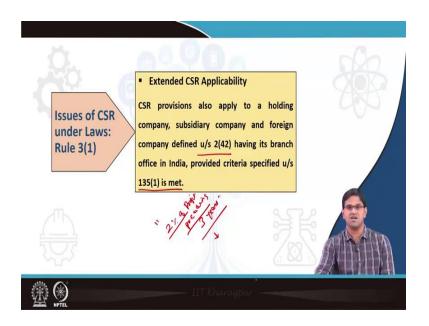
So, in case if they fail to disport that has to be clearly specified in the board report the reason for noncompliance, because if you are not giving the reasons then you will be you know the company is liable for a legal action.

So, the board report has to mention what is the reason for which they are not able to spend their 2 percent of their profit on CSR activity. So, it is also saying you know spending funds allocated for CSR activities shall be given in the local vicinity of the company's operation.

So, the more the though you are listed down an activities, to an extent the spending should be around the vicinity of the company's operations though when you are planning an activity, you plan an activity which are in the vicinity of the company's operations ok.

So, these are the function role of a board to ensure ok. So, ensure that whether 2 percent of the profit of the last preceding 3 years been spent on CSR activity in case if they are not spent, they have to state the reasons for noncompliance why they are not able to spend and also ensure that the activities are such a way that have been carried out in and around the vicinity of the organisational operations.

(Refer Slide Time: 18:46)



Now, what are the extended applicability of the CSRs. The CSR provisions also applies to a holding company and also for a subsidiary company and foreign company.

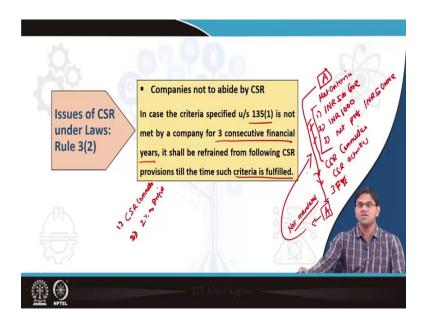
Under section 2 of 42 to having its branches in India provided you know this criteria specified is met. So, the specifications we are talking about you know the qualification of the company based on their net profit their turnover. So, and also we are talking about a

net worth of the company all that is been qualifying them to you know to be part of the CSR activity.

So, it can also be a holding company can be subsidiary company or a foreign company will also be you know mandated to carry out a CSR activity in case if they are having a net profit of 5 crore or more in the preceding financial year or if their turnover is you know 1000 crore or more or if the net worth of a company is a 500 crore or a more then they have to engage in a CSR activity what is the requirement under the CSR activity? 2 percent of profit for preceding 3 years.

So, this is the mandatory requirement to spent on CSR expenditure. You know in case if they are not spending, they have to disclose the reason as to why they are not able to spend. So, this is very important as per the CSR activity is concerned.

(Refer Slide Time: 20:13)



So, when a company is not abided, by you know the CSR. So, companies not to abide which are the companies which are not required to carry out this mandatory CSR activity. In case the criteria mentioned under 135 1 is not met by a company for 3 consecutive financial year, it shall be refrained from following CSR provision till the time such criteria have to be fulfilled meaning that.

So, when we talked about you know net worth of a company is 500 crore or more or a turnover is 1000 crore or more or the net profit is 5 crore or more.

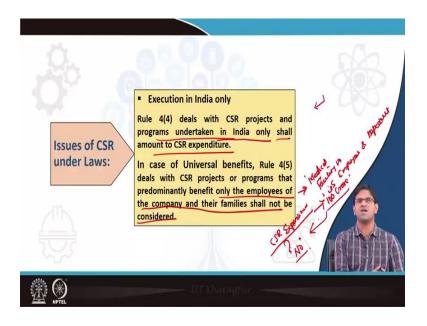
In case if a company is not meeting these criteria for 3 consecutive financial years, then those company are not required to carry out this mandatory CSR activity. When we are talking about you know not mandator meaning that they are not mandator to form CSR committee right and then they are also not required to carry out this 2 percent of a profit right.

So, this is for company who were part of it. This what we are talking about here is let us say you know a company A; company A met the criteria the company met the criteria which is you know INR 500 crore or more for the net worth of a company then INR 1000 crore as a turnover and net profit 5 you know INR 5 crore ok.

Now, this is where their company is already qualified, they were doing this and they were forming a CSR committee ok, they are formed a CSR committee, they are carrying out CSR activities.

Now, what has happened? This company's name A for the last 3 years financial year F Y refers to financial year ok. For the last 3 financial years they are not meeting these criteria. So, what will happen? The company A is not mandated or refrain excluded from following the CSR provisions again till the time they meet this criteria ok.

(Refer Slide Time: 22:31)



So, now so what are the execution in India only. So, now, when we are talking about the CSR activities when we they say you know schedule 7 listed down what are the activities

to be carried out now. When you are talking about the subsidiary company or a holding company or a foreign company and if you wanted to carry out you know social development activities or the environmental activities or various other activities you cannot you know spend money or carry out the activities outside India.

So, which says these activities has to CSR projects and programs should be undertaken in India only and that will be only amount to CSR expenditure. Let us say my company spent on something environmental related activities in a different country ok.

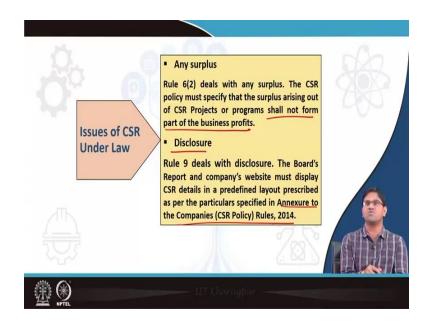
So, then when they claim that amount spent outside India under their CSR expenditure it cannot amount to the CSR expenditure. Any activity which are undertaken in India only will be allowed to be calculated under their CSR expenditure.

In case of an, universal benefit the rule CSR rule of you know 4 or 5 deals with CSR projects or programs that predominantly benefit only the employees of a company or a family shall not be considered. Again, if you are carrying out a CSR activity which are beneficial only to their company and their families, employees and their families then that shall not also be calculated as a CSR expenditure.

Let us say a company provides loans or you know medical facilities. Let us talk about a medical facility to its employees and their dependents ok. Let us take the situation and company says we have spent a 100 crore on this. Now the question comes can they claim under CSR expenditure? It is a medical facility only they are providing. If you say it is no, they cannot claim as because this is to their specific employees and their dependents it cannot be counted as a CSR activities.

So, it should be for a society or a community. If you are doing something for your specific employees and for your and their dependent, then it cannot be counted as their CSR expenditure for a company ok.

(Refer Slide Time: 24:55)

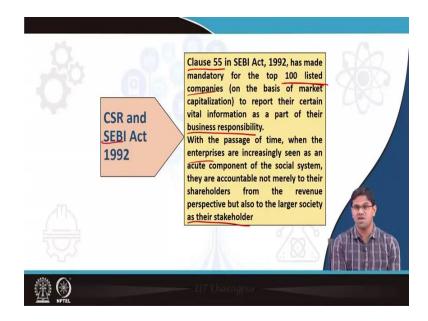


Now, any other you know specific aspects related to any surplus. Under rule 6 of 2 deals with any surplus, the CSR policy must specify when in case of a surplus arising out of a CSR project or program shall not form a part of a business profits.

So, let us say you know I am talking about some surplus money which are left out from a CSR program or a project can I you know include part of the business profit no it cannot be added part of the business profit. So, now, talking about the provisions with respect to disclosure. Rule 7 deals with the disclosure the boards report and company's website must display CSR details in a predefined layout describes as per the specified annexure on the company's CSR policy rules under 2014.

You know it is a responsibility of a board or a company and the boards report to list down their CSR activity and that should be part of their company's website. So, anybody who wants to see the company's CSR activities that information has to be available as per the format, which are prescribed under the CSR rules of 2014. So, company has to display the information about the CSR activity as per the format which are mandated through the CSR rules of 2014 ok.

(Refer Slide Time: 26:21)



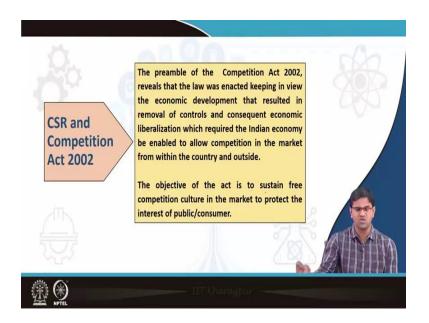
So, what does the SEBI Act which is you know Stock Exchange Board of India act of 1992, which also talks about socially responsible behaviour of a company. So, the class 55 of this Stocks Exchange Board of India. So, SEBIs you know Stock Exchange Board of India, which says you know it is made mandatory for top 100 listed companies on the basis of the market capitalization values to report their certain vital information as part of their business responsibilities.

It is the responsibility of the businesses who are listed on top 100 companies under SEBIs act you know they have to disclose all vital information of their company as their business responsibility. So, with you know most of the time the enterprises are increasingly mean when you are talking about an enterprises where companies are increasingly seen as an acute component of a social system.

Why we are talking about you know companies has to be socially responsible the reason is you know the organization has become an important component of a larger social system. So, they are not only merely accountable for their stake shareholders they are you know they are also accountable for their larger society and their stakeholders.

So, that is why now many legal provisions are mandating the organization to you know be responsible in their business operations, because they are not restricted their activities only to their shareholder meaning that the investors, they are also accountable to the larger society and they have to be, behave responsibly.

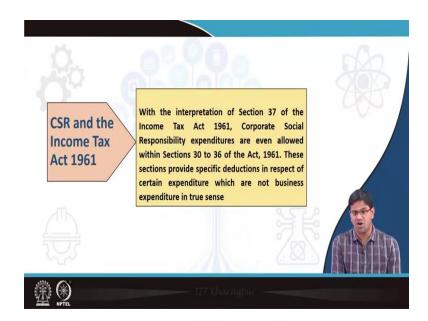
(Refer Slide Time: 28:01)



And the CSR it is also you know when they are talking about you know Competition Act. See, Competition Act also enables the you know removes certain controls and you know economic liberation after the liberalisation and globalisation of act the Competition Act of you know 2002 of in India, which actually allowed to remove certain controls and you know economic liberalisation which allow the you know better competition to occur to benefit the society and then you know also uphold the interests of the consumer.

So, meaning that when we talk about a Competition Commission Act also, which says how are we going to protect the interests of the consumer and it also talks about you know avoiding catalysation or inter you know insider trading all that we are talking about you know why two companies cannot just drive the whole industry. So, the competition commission also ensures that there are no catalysation occurs that will you know impact the larger consumers ok.

(Refer Slide Time: 29:00)

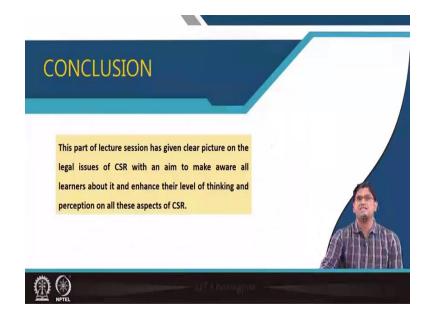


Then say income tax also act also provides certain provisions for their expenditures of social responsibility activity are allowed under the section 30 to 36 of the Act which provides you know certain reductions favouring the organization who engage in CSR activities ok.

(Refer Slide Time: 29:17)



(Refer Slide Time: 29:19)



So, these are the references and today we discussed about legal aspects of the CSR, where in the beginning we also discussed about what are the instances during which the during the training program where it might lead to a legal action on the company and we also discussed about various provisions, which are mandator mandating the CSR activities of a company we discussed about section 135 of Companies Act how the CSR committee has to be formulated, which company is mandated to do a CSR activity, who are excluded from you know or maybe they can do a voluntary CSR activities.

And we also discussed about various provisions, which mandating to disclose the CSR activities of the company. So, we will be discussing about managing diversity in the training program in these subsequent lectures.

Thank you.