

Only a pragmatic taxation regime will make the online gaming industry viable

Mumbai, 30th April 2022: As the Group of Ministers (GoM) set up by the Union Ministry of Finance to look into matters related to GST regime covering online gaming, casinos and race courses are set to meet on May 2 in Delhi, The online gaming industry is making a strong plea against stiff GST rates, which it claims has the potential to make the entire industry unviable.

The online gaming industry has vociferously opposed the proposal to levy GST on 30% of entry fee + 115 % surcharge instead of platform fee /Gross Gaming Revenue (GGR) which will make the entire industry unviable.

Drawing parallels to the international online gaming industry tax structures, Industry experts have pointed towards some leading international markets like the USA, UK, Australia and Germany, and how they levy tax on GGR at a rate between 15-20 per cent. **Gopal Jain, Senior Advocate, Supreme Court of India**, said *“We’ve seen internationally that markets which started taxing the prize pool instead of the GGR have had to revert back to taxing only to GGR as it resulted in non-compliance, revenue leakage and grey markets.”*

Advocating the need for levying tax on GGR alone, the online gaming industry has maintained that taxing on GGR instead of prize pool has proven to increase tax revenues in the long term and with international learnings also indicating the same, several recommendations have been sent to the GST council, ahead of the scheduled meeting, to plug revenue leakage by stopping shifting of business to the grey market and discourage non-compliance with a proven and prevalent global practice.

Rameesh Kailasam, Chief Executive Officer, IndiaTech.Org, said *“The burgeoning potential of the online gaming industry in India needs to be tapped rightfully. It is necessary that games involving predominance of skill should ideally be taxed at 18% on the platform fee. The GoM should ideally take a positive view and recommend continuance of current practice of considering platform fee / GGR as value of supply. Since online skill based gaming is not gambling or betting or wagering, a clarification needs to be issued to resolve litigation and provide relief to the industry.”*

The online gaming industry has attracted FDI of over INR 10,000 crore with the potential of attracting over Rs 15,000 crore in the coming three years, and experts strongly believe that the industry will become unviable if the current taxation regime is changed. With the digital economy seeing a contribution of more than INR 1450 crore in tax in FY21 from the online gaming sector alone, the sunrise sector is projected to create over 12,000 jobs in the next 2-3 years. In addition, transactions on online gaming platforms are 100% digital with no cash and have a significant contribution to “Digital India”. Moreover, the online gaming industry is believed to play a crucial role in taking the startup spirit in the country to the next level and further boost India’s AVGC sector.

Expressing concerns on the current ambiguity, **S Krishnan - Advocate, Practising in Fields of Sports Law & Taxation**, said *“A higher tax burden will make the industry*

unviable, and online gaming platforms have appealed to the government on numerous occasions to not treat skill based online games same as gambling while sharing a case in point on how a different and rational tax treatment of online skill based games can help in eliminating non-compliance, leakage of revenue and grey markets.”

Experts believe that it can be a win-win scenario for all stakeholders if resolution of uncertainty in the policy making and taxation for skill based online gaming is resolved at the earliest. In doing so, the industry will attract an increased FDI and growth, enhanced consumer interest and tax revenue, which will help the government in the long term and make India a dominant global force in AVGC.