

Supreme Court of India quashes judgment of the Karnataka High Court and upholds levy of goods and service tax on the online gaming, fantasy sports and casino transactions

The Hon'ble Supreme Court of India ("Supreme Court"), in the case of *Directorate General of Goods and Services Tax Intelligence (HQS) vs. Gameskraft Technologies Private Limited*¹, has upheld the taxability of actionable claims arising out of betting and gambling activities under the Central Goods and Services Tax Act, 2017 ("CGST Act"). The Supreme Court has further ruled that the entire pool of bets placed by players would be subject to GST in the hands of online gaming platforms. This ruling is expected to have significant tax implications for the sector, potentially exposing companies to substantial tax demands and materially altering the existing business and regulatory landscape.

Brief facts

The dispute arose from a pan-India investigation that led to SCNs being issued to online gaming entities, seeking to demand high-value amount of Goods and Services Tax ("GST"). The SCNs alleged that the activities of such entities constituted betting and gambling involving actionable claims.

The Director General of Goods and Services Tax Intelligence ("DGGI") issued the SCN to Gameskraft Technologies Private Limited ("Gameskraft") alleging short payment of GST, along with interest and penalty, on the ground that Gameskraft had misclassified its supplies as services rather than as actionable claims, taxable as goods, under the Central Goods and Services Tax Act, 2017 ("CGST Act"). Gameskraft challenged the SCN before the Karnataka HC, which allowed the writ petitions and quashed the SCN.²

In addition to Gameskraft, other fantasy sports operators, skill-based poker platforms, gaming federations, and licensed casino operators were also subject to similar litigations pending before various high courts and before the **Supreme Court**. These entities challenged the SCNs, assessment orders, and the constitutional validity of the CGST Act and the rules framed thereunder.

The statutory landscape also evolved during the pendency of the litigation. Basis the GST Council's recommendations, the Parliament enacted the CGST (Amendment) Act, 2023, ("**2023 Amendments**"), introducing definitions for 'online gaming', 'online money gaming', "specified actionable claim", and related provisions. The Government also amended the valuation rules through notification to levy GST on online money gaming and casino operators-on total deposits.

¹ Civil Appeal No(S). 8241 - 8244 of 2026 (decided on May 27, 2026]

² Order dated May 11, 2023, passed by the Karnataka HC in Writ Petition Nos. 19570 of 2022, 19561 of 2022, 20119 of 2022 and 2012 of 2022

Issues

The Supreme Court framed and considered the following issues, a summary of which is set out below:

1. classification of online gaming activities, including fantasy sports involving staking on uncertain outcomes, as betting and gambling under the GST framework;
2. constitutional validity of the provisions of the CGST Act taxing actionable claims arising from online gaming, including issues of legislative competence and fundamental rights;
3. whether actionable claims in betting and gambling constitute “goods” and taxable supplies, - under the statutory definition
4. scope of ‘supply’ of actionable claims, whether it is confined to transfer of pre-existing actionable claims or extends to broader organised gaming arrangements;
5. determination of ‘consideration’ in such transactions, and the validity of the prescribed valuation mechanisms;
6. validity of Rule 31A³ of the Central Goods and Services Tax (CGST) Rules, 2017 (“**CGST Rules**”) and related valuation rules, including whether they are intra vires the Act, and within the scope of delegated rule-making powers.
7. nature and effect of the 2023 Amendment (including changes to Entry 6 of Schedule III and insertion of Rules 31B⁴ and 31C⁵ under the CGST Rules), whether they are clarificatory or retrospective, and their constitutional validity;
8. role of online gaming operators, whether they are mere facilitators or suppliers of actionable claims.
9. applicability of the amended valuation rules to online gaming, fantasy sports, and casino transactions, and their impact on pending proceedings; and
10. legality of SCNs, adjudication proceedings, valuation methodologies, and consequential tax demands issued against gaming platforms and casinos?

Findings and analysis

Betting and gambling

1. The Supreme Court observed that every game, whether skill-based or chance-based, necessarily involves an uncertain outcome. A game of skill is one where a participant can substantially control the outcome through ability. However, where such control becomes minimal in comparison to uncontrollable variables, the activity assumes the character of a game of chance. The Supreme Court drew a distinction between 2 (two) staking scenarios: (a) where the bettor is a spectator or a non-playing participant; and (b) where the player stakes on their own performance. In both cases, once money or money’s worth is risked on an uncertain outcome, the activity constitutes betting and gambling regardless of whether the underlying game involves skill, chance, or a mix of both.
2. The terms ‘betting’ and ‘gambling’ constitute a composite, interchangeable expression referring to staking money on uncertain outcomes. The constitutional text treats ‘betting and gambling’ as a single genus, not confined to games of chance alone. The determinative factor is the act of staking on uncertainty, not the nature of the underlying activity. Relying on *Junglee Games*⁶, the SC categorically held that where online games, including those predominantly involving skill, are played for stakes, the activity assumes the essential characteristics of betting and gambling for GST purposes.

³ Rule 31A of the CGST Rules specifies the value of supply in the case of lottery, betting, gambling and horse racing.

⁴ Rule 31B of the CGST Rules specifies the value of supply in case of online gaming, including online money gaming.

⁵ Rule 31C of the CGST Rules specifies the value of supply of actionable claims in the case of casino.

⁶ *State of Tamil Nadu and Ors. vs. Junglee Games India Private Limited and Ors and connected matters*, Civil Appeal Nos. 6124–6131 of 2023

Constitutional validity of the levy

1. The Supreme Court unequivocally upheld that the Parliament (and the States) have full legislative competence to tax actionable claims arising from betting and gambling under Article 246A of the Constitution of India. GST is a tax on 'supply'; once actionable claims arising from betting and gambling are treated as supplies, they validly fall within the GST framework.
2. A key constitutional clarification was that GST is a tax on the 'supply of actionable claims' arising from online gaming involving stakes. The Supreme Court held that organised gaming platforms create a commercial ecosystem in which participants acquire contingent beneficial interests in movable property upon participation, i.e., a 'chance to win' upon staking. These interests constitute actionable claims under Section 37 of the Transfer of Property Act, 1882. The term 'supply' under Section 7⁸ of the CGST Act is not confined to the transfer of pre-existing actionable claims; it extends to the creation of such interests within organised betting and gambling arrangements.
3. The Supreme Court concluded that online gaming operators are not mere intermediaries facilitating player-to-player transactions. Rather, they create and operate the commercial ecosystem within which participants acquire actionable claim interests. The taxable supply arises at the point when stake amounts are placed and appropriated towards gameplay participation. Accordingly, operators are regarded as suppliers of actionable claims under the GST framework. In support, the Supreme Court relied on the amended Section 2(105)⁹ of the CGST Act, which expressly includes persons who organise or arrange the supply of specified actionable claims, within the definition of 'supplier'.

Valuation provisions

1. The Supreme Court upheld the validity of Rule 31A of the CGST Rules by anchoring it within Section 15¹⁰ of the CGST Act, particularly Section 15(1)¹¹. In betting and gambling transactions, the entire stake amount constitutes the 'consideration' and hence the 'transaction value'. The Supreme Court rejected the argument that only the platform fee or commission represents consideration, noting that participation itself is contingent upon payment of the full stake. Consequently, there is no statutory basis to deduct prize pools, winnings, or payouts when determining the taxable value under Section 15(1) of the CGST Act.
2. Addressing Section 15(4)¹² and 15(5)¹³ of the CGST Act, the Supreme Court emphasised the wide latitude available in fiscal legislation for determining valuation mechanisms. Rule 31A of the CGST Rules does not override Section 15(1) of the CGST Act, but operates as a machinery provision to ensure uniformity and prevent divergent industry practices. Even if Section 15(4) or 15(5) of the CGST Act is invoked, the rule remains valid as part of the delegated legislative framework, supported by the rule-making power under Section 164¹⁴ of the CGST Act, provided it was recommended by the GST Council. The absence of a specific notification under Section 15(5) of the CGST Act was not treated as fatal to the validity of Rule 31A of the CGST Rules.

⁷ Section 3 of Transfer of Property Act, 1882 defines 'actionable claim' to mean a claim to any beneficial interest in moveable property not in the possession, which the Civil Courts recognise as affording grounds for relief.

⁸ Section 7 of the CGST Act specifies the scope of supply to include all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.

⁹ Section 2(105) of the CGST Act defines 'supplier' as the person who provides goods or services. It also includes someone acting on their behalf (like an agent). Additionally, if a person or platform organises or facilitates certain types of supplies (like online gaming or betting), the law treats them as the supplier and makes them responsible for paying tax.

¹⁰ Section 15 of the CGST Act lays down the provisions for determining the value of taxable supplies.

¹¹ Section 15(1) of the CGST Act defines the value of supply of goods or services or both as the transaction value.

¹² Section 15(4) of the CGST Act states that where the value of supply of goods or services or both cannot be determined under Section 15(1) of the CGST Act, the same will be determined in the manner prescribed.

¹³ Section 15(5) of the CGST Act states the power of the Government to notify the value of specific supplies on the recommendations of the GST Council.

¹⁴ Section 164 of the CGST Act provides for the power of Government to make rules.

2023 Amendments

Regarding the 2023 Amendments, the Supreme Court held that these are clarificatory and explanatory in nature, and consequently retrospective in operation. The 2023 Amendments neither create a fresh levy nor introduce a new taxable event. The taxability of actionable claims arising from betting and gambling was already recognised under the pre-amendment framework. The 2023 Amendments principally provide greater statutory specificity and operational clarity for the valuation and collection mechanisms governing online gaming and casino transactions.

The Supreme Court dismissed all-writ petitions and transferred cases, upheld the constitutional and statutory validity of the impugned provisions, and directed that all pending SCNs, adjudication proceedings, and consequential demands be decided in accordance with Rules 31B and 31C of the CGST Rules. The Karnataka HC's judgment quashing the SCN against Gameskraft was set aside, and the SCNs were restored for adjudication.

The Supreme Court granted 8 (eight) weeks from the date of receipt of the judgment for filing replies to SCNs and directed-adjudicating authorities to pass orders within 12 (twelve) weeks thereafter. The assesseees may raise all factual and legal submissions before the competent authority, which must adjudicate strictly in accordance with law and in light of the Supreme Court findings. The 12 (twelve) weeks have *also* been granted for filing appeals against assessment orders.

Conclusion

The judgment, in its concluding observations, emphasized the need for predictability, consistency, and coherence in tax jurisprudence. Given the Supreme Court's categorical direction that adjudication must be undertaken strictly in accordance with law and its findings, the authorities are expected to adopt a fair and balanced approach, extending appropriate relief wherever warranted.

Significantly, the Supreme Court has characterised Rules 31B and 31C of the CGST Rules as clarificatory, rendering them retrospective. As a corollary, the explanation appended to these rules must also apply retrospectively. The practical effect is substantial: amounts merely re-staked within the gaming ecosystem without being withdrawn by the player ought not to be treated as fresh consideration for valuation purposes. This interpretation materially reduces the taxable value and offers meaningful relief to assesseees, particularly in ongoing and past disputes.

The-authorities bear a heightened responsibility to implement this judgment with-care and precision and not in an overbroad or indiscriminate manner. Equally, assesseees must advance robust legal and factual submissions tailored to-each case. In particular, challenges to the invocation of Section 74 of the CGST Act, including the applicability of the extended limitation period, imposition of penalties, and objections to impermissible clubbing of tax periods, should be raised wherever applicable.

This judgment is likely to have far-reaching ramifications. Notably, the characterization of the underlying transactions as actionable claims may have broader implications across the GST framework.

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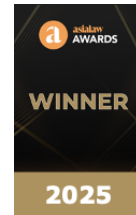
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