

Practical Application of GST on Gaming & Gambling vide Rule 31B & Rule 31C: Explanation with examples

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Rule 31B of The CGST Rules inserted vide Not No 45/2023, provides for determining the Value of supply in case of online gaming including online money gaming. The same goes as follows –

Notwithstanding anything contained in this chapter, the value of supply of online gaming, including supply of actionable claims involved in online money gaming, shall be the total amount paid or payable to or deposited with the supplier by way of money or money's worth, including virtual digital assets, by or on behalf of the player:

Provided that any amount returned or refunded by the supplier to the player for any reasons whatsoever, including player not using the amount paid or deposited with the supplier for participating in any event, shall not be deductible from the value of supply of online money gaming.

To explain with an example – Say a gamer deposits Rs. 1 Lakh before starting an online gaming session. He has to additionally pay Rs.28,000/- as GST. Thereafter he utilizes only Rs. 50,000 worth of his deposit, yet he will be refunded only Rs.50,000/- and not the proportionate GST of Rs.14,000/-.

Again, Rule 31C provides for Value of supply of actionable claims in case of casino as follows–

Notwithstanding anything contained in this chapter, the value of supply of actionable claims in casino shall be the total amount paid or payable by or on behalf of the player for -

- (i) purchase of the tokens, chips, coins, or tickets, by whatever name called, for use in casino; or*
- (ii) participating in any event, including game, scheme, competition or any other activity or process, in the casino, in cases where the token, chips, coins or tickets, by whatever name called, are not required:*

Provided that any amount returned or refunded by the casino to the player on return of token, coins, chips, or tickets, as the case may be, or otherwise, shall not be deductible from the value of the supply of actionable claims in casino.

To explain with an example – Say a better deposits Rs. 1 Lakh before starting an a betting session. He has to additionally pay Rs.28,000/- as GST. Thereafter he utilizes only Rs. 50,000 worth of his deposit, yet he will be refunded only Rs.50,000/- and not the proportionate GST of Rs.14,000/-.

The silver lining is in the explanation to 31B & 31C which provides as follows –

Explanation.- For the purpose of rule 31B and rule 31C, any amount received by the player by winning any event, including game, scheme, competition or any other activity or process, which is used for playing by the said player in a further event without withdrawing, shall not be considered as the amount paid to or deposited with the supplier by or on behalf of the said player.”

To explain with an example – Say a better/gamer deposits Rs. 1 Lakh before starting a betting/gaming session. He has to additionally pay Rs.28,000/- as GST. Thereafter he utilizes only Rs. 50,000 worth of his deposit, but wins Rs.5,00,000/-, he will take home as follows –

Particulars	Base Value	GST	Total
Initial Deposit	-1,00,000.00	-28,000.00	-1,28,000.00
Prize money	5,00,000.00		5,00,000.00
refund of unutilized deposit amt.	50,000.00		50,000.00
Excess Take home	4,50,000.00	-28,000.00	4,22,000.00

Hence, the proviso to Rule 31B & 31C seems to change the taxable event from 'supply' to 'expected supply'. Even though an actionable claim is a beneficial ownership in debt, yet when no supply is received at all, the non-reduction of the refunded amount from the value of supply seems to stretch the taxability. However, the explanation to the Rules makes it clear that the GST Authorities seek to control only the entry point and not post that and hence even the prize money is not taxable, just like in case of a lottery.

BRIEF ABOUT THE AUTHOR:

Vivek Jalan is a Chartered Accountant & a qualified L. LM & LL.B. He is the Founder & Partner of Tax Connect Advisory Services LLP. He is the Chairman of The Indirect Tax Core Group of The Confederation of Indian Industries – Economic Affairs and Taxation Committee (ER). He is the Chairman of The Fiscal Affairs and Taxation Committee of The Bengal Chamber of Commerce and Industry. He is the Member of The Managing Committee of The Bengal Chamber of Commerce and Industry.

He is a regular Columnist and guest expert in Economic Times, Business Standard, Times of India, Dalal Street Journal, Money Control, Live mint, CNBC, Hindustan Times, Zee Business, Financial Express, other dailies and business magazines like Business Today, etc. He is also a guest expert on Taxation matters in All India Radio and other media platforms. He is the Editor of Weekly Bulletin TAX CONNECT, a publication on Direct and Indirect Taxes which reaches more than 70000 professionals.

He is also a visiting faculty in The Confederation of Indian Industries (CII), The Institute of Chartered Accountants of India, Institute of Cost Accountants of India, Indian Institute of Foreign Trade, The Bengal Chamber of Commerce and Industry, The Indian Chamber of Commerce, The Merchant Chamber of Commerce and other Business Forums. He has also delivered Lectures at various Government Taxation Forums including the CGST & SGST Departments across the country.

He has worked as a Finance Manager in ITC Ltd. and Chief Compliance Officer with IntraSoft Technologies Ltd. He has more than 18 years of experience in the field of Information Technology, Finance, Taxation and Logistics. He was also an All-India Rank holder in CA Final Examination conducted by the Institute of Chartered Accountants of India.

His Books include the following –

- COMMENTARY ON UNION BUDGET 2023 – February 2023
- HOW TO HANDLE GST LITIGATION– September 2022
- HANDBOOK ON GST– June 2022
- GST PLEADING & PRACTISE – August 2021 – **India's Bestseller**
- UNION BUDGET 2021 – February 2021
- SECTIONWISE COMPENDIUM ON GST – October 2020
- INTEGRATED APPROACH TO E-INVOICING E-WAYBILL & RETURN FILING – October 2020
- COMMENTARY ON UNION BUDGET 2020– Feb 2020
- COMMENTARY ON UNION BUDGET 2019 – July 2019
- WITHDRAWAL OF LEGAL TENDER 2016
- COMMENTARY ON UNION BUDGET 2017
- SECTION-WISE COMPENDIUM ON GST – Oct 2020
- INTEGRATED APPROACH TO GST E-INVOICE, E-WAYBILL & RETURN E-FILING – Oct 2020
- **SECTION-WISE COMMENTARY ON GST – SEPTEMBER 2018**
- HOW TO HANDLE GST-TDS, GST-TCS, GST AUDIT & GST ANNUAL RETURN – NOVEMBER 2018
- A COMPENDIUM ON GST W.E.F. 1ST JULY 2017
- GST MODEL LAW (NOVEMBER 2016) & BUSINESS PROCESSES – A TECHNICAL COMMENTARY
- GST MODEL LAW (JUNE 2016) & BUSINESS PROCESSES – A TECHNICAL COMMENTARY
- "SERVICE TAX AND VAT IN WORKS CONTRACT: A COMPREHENSIVE TECHNICAL GUIDE".

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