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By Speed Post/Email
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Smt. Nirmala Sitharaman
Hon'ble Union Minister of Finance and Corporate Affairs
Ministry of Finance
Government of India
North Block
New Delhi 110 001

Hon'ble Finance Minister,

Subject: Recommendation for the Honourable Group of Ministers (GoM) on Casinos, Race Courses and Online Gaming and Honourable GST Council regarding the valuation of online gaming under GST laws

1. **The Bombay Chamber of Commerce and Industry** is one of the oldest chambers in the country with an illustrious history of 186 years. The Chamber has played a significant role in supporting the development of industries in Mumbai over the last several decades. The Chamber serves as an effective vehicle of communication between the regulatory bodies, the corporate and the society. Over the past few years the Chamber has moved to facilitate trade and Industry in playing a larger role of **"Corporate as a Citizen"**.
2. At the outset, we are extremely thankful to the Hon'ble Finance Minister, the GST Council, and the Group of Ministers (GoM) on Casinos, Race Courses and Online Gaming to **deliberate and re-examine the issue of rate and valuation of charging GST on the online gaming industry to keep the industry viable.**

Background

3. India today is recognised as a top and fastest growing countries for the online gaming sector. The sector has received a fillip through recent policy decisions such as the formation of the **AVGC task force** in this year's union budget, **allowing 100% FDI** and creation of the **inter-ministerial task force to regulate online skill gaming etc.**
4. The industry which contributes **INR 2,200 Cr annually in indirect taxes alone**, is expected to contribute **over INR 6,000 Cr annually by 2025**. The industry currently is paying GST at the rate of **18% on the platform fee or gross gaming revenue (GGR)**. The platform fee or the gross gaming revenue is about 10-20% of the total contest entry amount (CEA).
5. As per recent media reports **after the 47th GST Council meeting, the GoM has recommended a rate of 28% on the online gaming services.** However, there is no clarity on the valuation for levying such rate of tax.
6. **Globally, the practice is to pay GST on the gross gaming revenue (GGR)** or the platform fee. Some countries that are in line with this practice are UK, Belgium, Denmark etc. In fact, the Fitment Committee recommended in 2019 that GST should only be paid on the gross gaming revenue (GGR).

GST is to be levied only on consideration

7. Under GST laws, GST can only be levied on the amount charged as consideration for supply. The term 'consideration' embodies the principle of contractual reciprocity and there must be a direct link between the consideration charged and the reciprocal supply. The consideration for the services undertaken by the operators has always been understood, to mean the platform fee or gross gaming revenue (GGR) only. Accordingly at present GST is paid at the rate of 18% on such value.
8. Contest entry amount (CEA) or the player deposits (which may be withdrawn and remain unused) are not the consideration received by the operator.
9. An increase of GST from 18% to 28% on GGR would amount to a 55% increase in the tax rate and will slow down the growth of this industry. However, the industry may still be able to absorb this cost. **However, if a rate of 28% is levied on the contest entry amount (CEA) or deposit, then the industry will have no option but to pass the tax burden to the user. Thereby making the entire industry become unviable.**

Impact on the industry and user

Rate (in %)	Valuation	GST Increase (in %)	Government	Industry	Consumer
18	GGR	-	~Rs.16,000 Crore GST collection for FY'23-FY'25	38% CAGR of Revenue	User base to increase to than 40 Crore from 20 crores by FY'25
28	GGR	~55%	Revenue should increase	Will slow down industry growth but operators can pay additional tax burden from their revenues	No impact
28	Net Deposits (Deposits- Withdrawals)	~55%	Revenue should increase	Will slow down industry growth but operators can pay additional tax burden from their revenues	No impact

28	Deposits	300%	Decrease in tax revenue	Indian skill gaming industry will become unviable	a. Reduction in winning pool b. Also, the number of games that a user will be able to play will reduce to about 50%.
28	Contest Entry Amount(A)	1,100%	Decrease in tax revenue	Industry will become unviable	a. Reduction in winning pool b. Also, the number of games that a user will be able to play will reduce to about 50%.

GST Impact on the Indian economy

10. The industry and the users will be hit badly, if 28% is charged on the contest entry amount (CEA) or the deposits. The industry will have no option but to pass on the burden to the users. The user, who is already required to pay full income tax on gross winnings will be unable to bear such a large increase in cost and will shift to **black market operators or illegal offshore gambling sites** to avoid the increase in playing costs and reduction in winning pool. **Hence, it is imperative that the value of supply (despite the proposed increase in the GST rate to 28%) should be the gross gaming revenue and not the CEA**
11. Legitimate online skill gaming operators would be rendered unviable, and this **vacuum is likely to be occupied by illegal offshore gambling sites, that do not pay any taxes, are often fly by the night operators, and leave users unprotected and vulnerable.**
12. If the users move towards these markets, then most of the companies in the online gaming industry will not be able to remain viable. As a consequence, **we estimate that thousands of jobs will be lost and hundreds of millions of dollars in value created by Indian entrepreneurs destroyed. This will result in substantial tax loss to the government.**
13. Further, this will also **nip the budding investor confidence in an industry that has attracted USD 2.1 billion over the past few years, and be counter-productive to the measures that are being taken by the Government.**

Prayer

We humbly request you to

- Keep the tax base as Gross Gaming Revenue (GGR or platform fees) with GST rate of 28%; further, rules could be clarified that **Gross Gaming Revenue should be declared as the value of supply for purposes of GST, in line with the international practice.**

- Define online skill gaming platform fees/Online skill gaming operators under GST legislation to remove the ambiguity through **inclusion of a separate service code for online skill-gaming operators.**
- ***The above proposition shall enable to ensure:***
 - ***Significant growth in GST revenue to the exchequer; 55% increase in GST which may lead to increase in overall projected cumulative GST collections from Rs. 16000 crores to the revised projection of Rs. 25000 crores during 2023 - 25***
 - ***The viability of the online skill gaming industry along-with further investments to sustain its phenomenal growth***
 - ***Adequate protection for the existing 20+ crore Indian gamers (which are expected to increase to 40 crore by 2025) by enabling platforms to absorb additional tax burden without passing it on to Indian consumers.***
 - ***Prevent leakage of tax revenues due to transfer of business from legitimate platforms to illegitimate offshore and grey market operators (nil revenue to exchequer from direct and indirect tax) due to exponential increase of over 1100% in GST as proposed by GoM.***

We hope that you will consider the representation favourably.

We would request for a meeting to explain our submission and discuss the related issues if so required.

Thanking you,

Yours faithfully,



Sandeep Khosla

CC: Mr. Vivek Johri, IRS
Chairman
Central Board of Indirect Taxes & Customs
Ministry of Finance
Government of India
North Block, New Delhi – 110 001

CC: Hon'ble Chairman, and Members of Ministers (GoM) on Casinos,
Race Courses and Online Gaming, Department of Revenue,
Ministry of Finance, North Block, New Delhi – 110 001