Sharp View

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Executive Summary

Indirect taxes

Impact of GST on online gaming in India

The Indian online gaming industry witnessed rapid expansion over the last decade, supported by affordable smartphones, widespread internet access, and a technologically adept youth population. Mr. Dhruv Bhavsar (Ahmedabad office) presents a structured overview of the legal evolution, statutory amendments, judicial developments, compliance implications, and economic consequences arising from the GST treatment of online gaming in India.

Direct taxes

An overview of certain TDS provisions applicable for the tax year 2026-27

The Income-tax Act, 2025 became effective from 1 April 2026. One needs to visit the tax deducted at source ('TDS') provisions for making timely payments and filings. This article by Ms. Aarti Joshi (Pune office) provides an overview of the TDS compliances for the tax year 2026-27. In particular, it summarises the following compliances:

1. TDS rates and thresholds
2. TDS returns for the tax year ('TY') 2026-27
3. Chalan-cum TDS statements
4. Issuance of TDS certificates

Impact of GST on online gaming in India

Introduction

The Indian online gaming industry witnessed rapid expansion over the last decade, supported by affordable smartphones, widespread internet access, and a technologically adept youth population. Formats such as fantasy sports, online rummy, e-sports, and real-money skill-based contests attracted millions of users and created a multi-billion-rupee ecosystem.

This growth, however, slowed down with significant changes under the Goods and Services Tax (GST) regime. The policy debate culminated in 2023, when the GST Council approved a comprehensive restructuring of taxation on online gaming by imposing a 28% levy on the full face value of bets or deposits, irrespective of whether the game is one of skill or chance. This shift fundamentally altered the industry's tax burden and triggered extensive litigation and constitutional debate.

Very recently, the Supreme Court of India, in a landmark judgement, upheld the constitutional validity of the retrospective levy of GST on the full face value of bets in the online gaming and real-money gaming sectors.

This article article presents a structured overview of the legal evolution, statutory amendments, judicial developments, compliance implications, and economic consequences arising from the GST treatment of online gaming in India.

Impact of GST on online gaming in India

Skill versus chance – legal foundation in India

Historically, Indian jurisprudence has drawn a clear distinction between games of skill and games of chance, which has played a decisive role in their legality and taxation.

Games of skill are those where outcomes are predominantly determined by the player's knowledge, training, experience, and strategic decision-making. Such games have consistently been recognized as legitimate business activities and are protected under Article 19(1)(g) of the Constitution. Judicial precedents including State of Andhra Pradesh v. K. Satyanarayana (1968) (rummy), Dr. K.R. Lakshmanan v. State of Tamil Nadu (1996) (horse racing), Varun Gumber v. UT of Chandigarh (2017), and Gurdeep Singh Sachar v. Union of India (2019) (fantasy sports) have affirmed this position.

Games of chance, on the other hand, are those where outcomes are primarily governed by luck or randomness, with minimal player control. Such activities have generally been treated as gambling or betting and are prohibited under the Public Gambling Act, 1867, and various State enactments. Lotteries, roulette, dice games, and similar formats have consistently fallen within this category, as reiterated in State of Bombay v. R.M.D. Chamarbaugwala (1957).

This judicial distinction earlier guided both regulatory treatment and indirect tax valuation under GST.

GST framework prior to October 2023

Before October 2023, the GST regime adopted a differentiated approach:
- Games of skill were taxed at 18% GST on the platform fee or Gross Gaming Revenue (GGR), treating online gaming platforms as service providers.
- Games of chance, including betting, gambling, and lotteries, attracted 28% GST on the face value of bets or tickets.

However, the absence of a statutory definition distinguishing skill from chance resulted in interpretational ambiguity. Divergent Advance Rulings and High Court decisions created uncertainty regarding classification and valuation, leading to prolonged disputes between the industry and tax authorities.

Year 2023 GST amendments – A structural shift

With effect from 1 October 2023, the GST Council implemented a uniform taxation framework for online gaming.

Key features of the amendments
- Uniform rate: All online money games, whether skill-based or chance-based, were taxed at 28% GST.
- Valuation basis: GST is levied on the full face value of bets or deposits, rather than only on platform fees.
- New definitions: The law introduced definitions for 'online gaming,' 'online money gaming, and 'specified actionable claims, expressly covering games played for money or money's worth, regardless of skill or chance.

Impact of GST on online gaming in India

- Valuation Rules: Rule 31B (online gaming) and Rule 31C (casino) were inserted in the CGST Rules, 2017, prescribing valuation based on the total amount deposited to play, excluding only refunded amounts.

This approach removed the long-standing skill-chance distinction for GST purposes and reflected a clear shift towards a revenue-protective and deterrent tax framework.

Landmark litigation – the Gameskraft case

The most significant litigation in this sector is Gameskraft Technologies Pvt. Ltd. v. DGGI.

In September 2022, the Directorate General of GST Intelligence issued a show-cause notice demanding approximately INR 21,000 crore for alleged GST evasion for the period August 2017 to June 2022. The demand was based on the premise that games such as rummy, even when skill-based, constituted betting when played for stakes, and were therefore taxable at 28% on the full stake value.

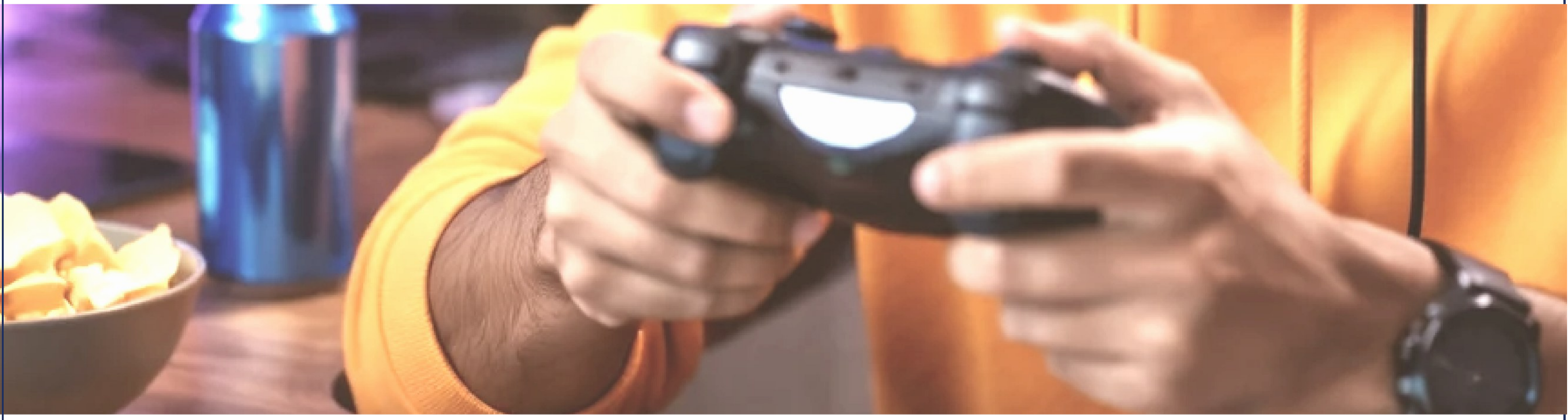
In May 2023, the Karnataka High Court quashed the notice, holding that rummy is a game of skill and that GST was correctly discharged at 18% on platform fees. However, in September 2023, the Supreme Court granted an interim stay on the High Court's order, allowing proceedings to continue.

In subsequent hearings, Gameskraft argued that the demand was mathematically inflated and disproportionate, emphasizing that GST had already been paid on actual revenues. On 27 May 2026, the Supreme Court of India, upheld the validity of retrospectively levying the GST at 28% of the value of bets. As of today, online gaming companies may become liable for the balance 10% (28% - 18%) of GST retrospectively.

Compliance and operational implications

The amended GST framework has introduced substantial compliance obligations:
- Mandatory registration for offshore gaming operators targeting Indian players, irrespective of turnover.
- Reverse charge mechanism exposure where foreign suppliers remain unregistered.
- Invoice and cash flow changes, with GST payable upfront at the time of deposit rather than withdrawal.

These changes significantly impact liquidity management, prize pool structuring, and overall operational viability.



INDIRECT TAXES

Impact of GST on online gaming in India

Economic impact – numerical illustration

A comparison of pre and post-October 2023 taxation highlights the magnitude of change:

- Earlier, a INR 1,000 deposit attracted GST of only INR 18 (1.8%) when levied on a 10% platform fee.
- Under the current regime, the same deposit attracts GST of INR 280 (28%), reducing the prize pool from INR 882 to INR 620.

The effective tax burden has increased nearly fifteenfold, leading to compressed prize pools, altered player economics, and pressure on platform margins.

Practical illustration

Particulars	Pre-Oct 2023 (18% GST on platform fee)	Post-Oct 2023 (28% GST on full deposit)
Deposit by Player	INR 1,000	INR 1,000
Platform Fee (10%)	INR 100	INR 100
GST Base	Platform Fee (INR 100)	Full Deposit (INR 1,000)
GST Rate	18%	28%
GST Payable	INR 18	INR 280
Total Deduction (Fee + GST)	INR 118	INR 380
Prize Pool Available to Players	INR 882	NR 620
Effective Tax % on Deposit	1.8%	28%
Effective Deduction % (Fee + GST)	11.8%	38%

Impact of GST on online gaming in India

Constitutional and policy concerns

The revised regime raised several constitutional and policy issues:

- Applicability of the expanded definitions to past periods.
- Dilution of the judicially recognized distinction between skill and chance.
- Proportionality of a 28% levy on gross deposits under Article 19(1)(g).
- Federal concerns, given that betting and gambling traditionally fall within State legislative competence.

The validity of retrospective taxation upheld by the honourable Supreme Court may place a huge tax liability on the online gaming industry assuming that the tax authorities issue show-cause notices for the differencial GST. Prohobition of online money games with effect from 1 May 2026 (vide the Promotion and Regulation of Online Gaming Rules, 2026), may adversely affect the existing gaming businesses. The online gaming industry players may need to remodel their businesses by shifting to e-sports and social games, however may still be liable to past GST liabilities on the online money gaming business.

Conclusion

The GST treatment of online gaming in India evolved from a nuanced, jurisprudence-driven distinction between skill and chance to a uniform high-tax regime on all money-based games. While the government aims to ensure revenue certainty and curb leakages, the industry cautions against reduced competitiveness, innovation slowdown, and market contraction. The recent Supreme Court verdict may cause the revenue department to issue show cause notices to the online gaming industry players for re-assessing the GST for the differential rate.

DIRECT TAXES

An overview of certain TDS provisions applicable for the tax year 2026-27

Introduction

The Income-tax Act, 2025 has become effective from 1 April 2026. Though there are no major amendments in the law, one needs to visit the tax deducted at source ('TDS') provisions for making timely payments and filings. The Income-tax department has issued a note titled 'Karasetu' that answers certain frequently asked questions about the tax compliances.

We have summarised the TDS compliances for the tax year 2026-27 as below.

1. TDS rates and thresholds
2. TDS returns
3. Chalan-cum TDS statements
4. Issuance of TDS certificates

1. TDS rates and thresholds

Sr. No	Nature of Payment	Section (1961 Act)	Section (2025 Act) and Table reference	Threshold (Tax year 2026-27 and thereafter)	TDS rate for the tax year 2026-27
Section 393 (1): Payments to residents					
1	Salary	192	392(1)	Basic exemption limit	Slab rates
2	Payment of accumulated balance due to an employee in Employees Provident Fund	192A	392(7)	INR 50,000	10%
3	<u>Commission or brokerage</u>	194D			
	Insurance commission		Sec 393(1) Table sl. no. 1(i)	INR 20,000	5%
	Other commission/brokerage		Sec 393(1) Table sl. no. 1(ii)	INR 20,000	2%

DIRECT TAXES

An overview of certain TDS provisions applicable for the tax year 2026-27

Sr. No	Nature of Payment	Section (1961 Act)	Section (2025 Act) and Table reference	Threshold (Tax year 2026-27 and thereafter)	TDS rate for the tax year 2026-27
4	Interest on securities	193	393(1) Table sl. no. 5(i)	INR 10,000	10%
5	Interest from Bank, Co-operative societies and Post office deposits • Senior Citizens • Other than senior citizens • Other Interest	194A	393(1) Table sl. no. 5(ii) and 5(iii)	INR 1,00,000 INR 50,000 INR 10,000	10%
6	Dividend	194	393(1) Table sl. no. 7	NIL	10%
7a	Sums paid/credited by a 'designated person' for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and a designated person (Note 1)	194C	393(1) Table sl. no. 6(i)	• INR 30,000 in a single payment • INR 1 lakh in the entire tax year	1% (where payee is Individual or HUF) and 2% for Others

DIRECT TAXES

An overview of certain TDS provisions applicable for the tax year 2026-27

Sr. No	Nature of Payment	Section (1961 Act)	Section (2025 Act) and Table reference	Threshold (Tax year 2026-27 and thereafter)	TDS rate for the tax year 2026-27
7b	Sums paid/credited by. 'an individual / HUF' for -Carrying out any work (including supply of labour for carrying out any work), -Professional fees, -Commission or brokerage (other than for insurance)	194J, 194M	393(1) Table sl. no. 6(ii)	INR 50,00,000	2%
7c	Sums paid/credited by a 'specified person' (Note 2) for:	194J	393(1) Table sl. no. 6(iii)		
	• Professional fees			INR 50,000	10%
	• Technical fees			INR 50,000	2%
	• Remuneration /fees/commission (other than those paid to a director of a company)			NIL	10%
	• Royalty (Note 3)			INR 50,000	10%

DIRECT TAXES

An overview of certain TDS provisions applicable for the tax year 2026-27

Sr. No	Nature of Payment	Section (1961 Act)	Section (2025 Act) and Table reference	Threshold (Tax year 2026-27 and thereafter)	TDS rate for the tax year 2026-27
7d	Any sum paid under section 26(2)(h), i.e. under an agreement of not carrying out any activity, or for not sharing any know-how, patent, copyright, trademark, licence, franchise or commercial right	194J	393(1) Table sl. no. 6(iii)	INR 50,000	10%
8	Rent **(Note 4)** for use of: • machinery or plant or equipment • land or building or furniture or fittings	194I	393(1) Table sl. no. 2	INR 50,000 (per month or part of the month)	• 2% • 10%

DIRECT TAXES

An overview of certain TDS provisions applicable for the tax year 2026-27

Sr. No	Nature of Payment	Section (1961 Act)	Section (2025 Act) and Table reference	Threshold (Tax year 2026-27 and thereafter)	TDS rate for the tax year 2026-27
9	Transfer of certain immovable property other than agricultural land	194-IA and 194LA	393		
	Consideration for transfer of any immovable property (other than agricultural land) by person [other than who is required to deduct tax under serial number 3(iii)].		Table sl. no. 3(i)	INR 50,00,000	1% or higher of: (a) consideration for transfer; or (b) stamp duty value of the property.
	Any consideration, not being consideration in kind, under the agreement referred to in section 67(14).		Table 3 sl. no. (ii)	NIL	10%
	Any sum in the nature of compensation/consideration or enhanced compensation/enhanced consideration on compulsory acquisition, under any law for the time being in force, of any immovable property (other than agricultural land).		Table 3 sl. no. (iii)	INR 5,00,000	10%

DIRECT TAXES

An overview of certain TDS provisions applicable for the tax year 2026-27

Sr. No	Nature of Payment	Section (1961 Act)	Section (2025 Act) and Table reference	Threshold (Tax year 2026-27 and thereafter)	TDS rate for the tax year 2026-27
10	Income from capital market				
	Income in respect of: units of a Mutual Fund specified under Schedule VII or units from the Administrator of the specified undertaking or units from the specified company	194K	Section 393(1) Table sl. no. 4(i)	INR 10,000	10%
	Any distributed income in respect units of a business trust	194LBA	Section 393(1) Table sl. no. 4(ii)	NIL	10%
	Any Income in respect units of an investment fund	194LBB	Section 393(1) Table sl. no. 4(iii)	NIL	10%
	Any income, in respect of an investment in a securitisation trust	194LBC	Section 393(1) Table sl. no. 4(iv)	NIL	10%

DIRECT TAXES

An overview of certain TDS provisions applicable for the tax year 2026-27

Sr. No	Nature of Payment	Section (1961 Act)	Section (2025 Act) and Table reference	Threshold (Tax year 2026-27 and thereafter)	TDS rate for the tax year 2026-27
11	Other cases				
	Any sum under a life insurance policy, includingthe sum allocated as bonus on such policy	194DA	Sec 393(1) Table sl. no. 8(i)	INR 1,00,000	2%
	Purchase of any goods	194Q	Sec 393(1) Table sl. no. 8(ii)	INR 50,00,000	0.1%
	Total income of a specified senior citizen after giving effect to deduction allowable under Chapter VIII and rebate allowable under section 156. (Here, the deductor is a bank)	194P	Sec 393(1) Table sl. no. 8(iii)	Basic exemption limit	Rates in force
	Any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession of any resident.	194R	Sec 393(1) Table sl. no. 8(iv)	INR 20,000	10%

DIRECT TAXES

An overview of certain TDS provisions applicable for the tax year 2026-27

Sr. No	Nature of Payment	Section (1961 Act)	Section (2025 Act) and Table reference	Threshold (Tax year 2026-27 and thereafter)	TDS rate for the tax year 2026-27
	Any sum on account of sale of goods or provision of services by an e-commerce participant, facilitated by an e-commerce operator through its digital or electronic facility or platform.	194O	Sec 393(1) Table sl. no. 8(v)	NIL	0.1%
	Any sum by way of consideration for transfer of a virtual digital asset	194S	Sec 393(1) Table sl. no. 8(vi)	NIL	1%

An overview of certain TDS provisions applicable for the tax year 2026-27

Sr. No	Nature of Payment	Section (1961 Act)	Section (2025 Act) and Table reference	Threshold (Tax year 2026-27 and thereafter)	TDS rate for the tax year 2026-27
Section 393 (2): Payments to non residents (Note 5)					
1	Any income by way of interest payable in respect of moneys borrowed in foreign currency from a source outside India which is approved by the Central Government in this behalf. (a) Under a loan agreement or issue of long-term infrastructure bond on or after the 1st July, 2012 but before the 1st July, 2023; or (b) by way of issue of any longterm bond on or after the 1st October, 2014 but before the 1 July 2023.	194LC	Sec 393(2) Table sl. no. 2	NIL	5%
2	Any income by way of interest payable in respect of moneys borrowed from a source outside India by way of issue of rupee denominated bond before 1 July 2023.			NIL	5%
3	Any income by way of interest payable in respect of moneys borrowed from a source outside India by way of issue of any long-term bond or rupee denominated bond, which is listed only on a recognised stock exchange located in any International Financial Services Centre.			NIL	4%: (Where the bonds are issued after 1 April 2020, but before 1 July 2023) 5%: (Where the bonds are issued after 1 July 2023)

DIRECT TAXES

An overview of certain TDS provisions applicable for the tax year 2026-27

Sr. No	Nature of Payment	Section (1961 Act)	Section (2025 Act) and Table reference	Threshold (Tax year 2026-27 and thereafter)	TDS rate for the tax year 2026-27
Section 393 (3): Payments to any person					
1	Income from winning from lotteries / crossword puzzle / card game / gambling or betting	194B	Sec 393(3) Table sl. no. 1	INR 10,000 for a single transaction	30%
2	Income by way of winnings from online game	194BA	Sec 393(3) Table sl. no. 2	INR 10,000	30%
3	Income by way of winnings from any horse race	194BB	Sec 393(3) Table sl. no. 3	INR 10,000 for a single transaction	30%
4	Commission on sale of lottery tickets	194G	Sec 393(3) Table sl. no. 4	INR 20,000	2%
5	Payment of certain amounts in cash	194N	Sec 393(3) Table sl. no. 5	INR 1,00,00,000	2%
6	Payment in respect of NSS deposits or payment to any deffered annuity plans	194EE	Sec 393(3) Table sl. no. 6	INR 2,500	10%
7	Any sum in the nature of salary, remuneration, commission, bonus or interest paid to a partner of the firm or credited to his account (including capital account).	194T	Sec 393(3) Table sl. no. 7	INR 20,000	10%

Notes

1. Designated person: is defined under section 402(7)

(a) the Central Government or any State Government; or
(b) any local authority; or
(c) any corporation established by or under a Central Act or State Act or Provincial Act; or
(d) any company; or
(e) any co-operative society; or
(f) any authority, constituted in India by or under any law, engaged either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both; or
(g) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any law corresponding to that Act in force in any part of India; or
(h) any trust; or
(i) any University established or incorporated by or under a Central Act or State Act or Provincial Act and an institution declared to be a university under section 3 of the University Grants Commission Act, 1956 (3 of 1956); or
(j) any Government of a foreign State or a foreign enterprise or any association or body established outside India; or
(k) any firm; or
(l) any person, being an individual or a Hindu undivided family or an association of persons or a body of individuals, if such person,—
(i) does not fall under any of the preceding sub-clauses; and
(ii) has total sales, gross receipts or turnover from business or profession carried on by him exceeding one crore rupees in case of business or fifty lakh rupees in case of profession during the tax year immediately preceding the tax year in which such sum is credited or paid to the account of the contractor.

2. Specified person under section 407(37) means

(a) any person, not being an individual or Hindu undivided family; or
(b) an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed one crore rupees in case of business or fifty lakh rupees in case of profession during the tax year immediately preceding the tax year in which such income or sum is credited or paid.

3. TDS on Royalty

Rate: 2% of such sum in case of—
(i) fees for technical services (not being professional services); or
(ii) royalty in the nature of consideration for sale, distribution or exhibition of cinematographic films; or
(iii) payee, engaged only in the business of operation of call centre;

An overview of certain TDS provisions applicable for the tax year 2026-27

4. TDS on Rent

Where the payer of the rent is 'other than specified person', the TDS rate will be 2%.

5. In this chart, TDS on interest payable to non-resident lenders is covered. For TDS on other payments to non-residents, please refer to the table in section 393(2) of the Act.

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2. TDS returns for tax year ('TY') 2026-27

Quarter of the tax year 2026-27	Period of TDS	Form no.	Due date of filing TDS return
Q1	Apr–Jun 2026	• Salary TDS return:138 • Non-salary TDS return:140 Non-resident TDS return: 144 • TCS return: 143	31 July 2026
Q2	Jul–Sep 2026		31 October 2026
Q3	Oct-Dec 2026		31 January 2027
Q4	Jan-Mar 2027		31 May 2027

3. Challan-cum-TDS statement

For any of the below-listed transactions, where the event of credit or payment occurs on or after 1 April 2026, the Challan-cum-TDS statement vide Form No 141 is required to be filed under the new Act.
(i) TDS on purchase of immovable property
(ii) TDS on rent by individual/HUF
(iii) TDS on payments by individuals/HUFs to contractors and professionals
(iv) TDS on transfer of virtual digital assets

4. Issuance of TDS certificates

Description	For the period	Form no.	Due date
TDS on Salary	TY 2026-27	130	15 June 2027
TDS on payments other than Salary	Apr–Jun 2026	131	15 August 2026
	Jul-Sep 2026		15 November 2026
	Oct-Dec 2026		15 February 2027
	Jan-Mar 2027		15 June 2027

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