taxsutra All rights reserved

Online Gaming Under GST: From Platform Fees to Full Face Value—The Supreme Court's New Rules of the Game

Jun 29, 2026

Prabhat Ranjan
Senior Director, Nexdigm

Dhruv Chhabra
Manager - IDT, Nexdigm

The long-running debate over whether online games involving stakes should be taxed as platform services or as betting and gambling has now been decisively addressed by the Supreme Court in ***Gameskraft Technologies Pvt. Ltd. v. Directorate General of GST Intelligence (DGGI) & Ors [TS-391-SC-2026-GST].*** The judgment significantly reshapes the legal and tax treatment of online gaming under the GST regime.

The Court held that the key question is not whether the underlying game is predominantly one of skill or chance. What matters is whether a participant, upon staking money, acquires a conditional right to win upon the occurrence of an uncertain event. If such a right arises, the transaction assumes the character of betting and gambling, and the actionable claim resulting from it becomes taxable under GST.

This ruling is commercially significant. By affirming GST on the full value of stakes rather than only on the platform fee, the judgment materially increases tax exposure for online gaming operators and raises broader questions about business viability, pending disputes, and the future policy response. This article summarises the dispute, the competing arguments, the Court’s reasoning, and the practical implications of the decision.

1. Background

At the heart of the dispute was the legal character of online gaming transactions. Gaming platforms argued that they merely provided access to a digital interface and earned only a platform fee or commission. The tax authorities, however, contended that the real supply

taxsutra All rights reserved

was not a facilitation service, but the creation of an actionable claim in favour of players who staked money for a chance to win. This distinction was critical because it determined both taxability and valuation under GST.

2. Position under the pre-GST regime

Before GST, transactions involving stakes on uncertain outcomes were generally analysed through the lens of betting, gambling and actionable claims. Under the sales tax regime, actionable claims were excluded from the definition of goods even though, in a broader legal sense, they were recognised as movable property. As a result, transfer of actionable claims was typically kept outside the sales tax net.

Under service tax, transactions in money and actionable claims were also specifically excluded from the definition of service, although ancillary services connected with organising or promoting such activities could be taxed. This historical position contributed to the industry's argument that, even under GST, only the platform fee should be taxed rather than the entire amount staked by players.

This background is important because it explains why the transition to GST triggered significant controversy: the statutory architecture changed, but the industry maintained that its commercial reality had not.

3. GST framework and the core legal challenge

The introduction of GST through the Constitution (101st Amendment) Act, 2016 fundamentally altered the taxing framework. Article 246A created a comprehensive source of legislative power for GST on supplies of goods and services, while the earlier constitutional entry dealing with betting and gambling was effectively absorbed into the GST architecture, subject to limited exceptions.

The dispute then moved to the CGST Act. Since the statutory definition of goods includes actionable claims, taxpayers challenged Parliament's competence to bring such claims within the GST net. They also contested the valuation rules that sought to tax the full face value of the stakes, arguing that operators earned only a fraction of that amount as revenue.

The challenge therefore, had two broad limbs: first, whether online gaming involving stakes results in a taxable supply of actionable claims amounting to betting and gambling; and second, if so, whether GST should be computed on the full stake amount or only on the operator's platform fee.

Set out below is a concise summary of the principal positions taken by the parties and the questions the Court had to resolve.

Revenue's case

taxsutra All rights reserved

- When a participant stakes money for an uncertain outcome, the platform creates a conditional right to win, which is an actionable claim.
- Such actionable claims fall within betting and gambling for GST purposes, even if the underlying game is described as a game of skill.
- The taxable supply is the actionable claim itself, not merely access to technology infrastructure.
- Accordingly, GST must apply on the full value of the stakes, and winnings paid out cannot be excluded from valuation unless the statute expressly permits it.

Online Gaming operator's case

- Online gaming operators argued that they do not themselves bet, gamble or participate in the contest; they merely provide a platform and earn a service fee.
- They contended that staking on a game of skill cannot automatically be equated with betting and gambling, particularly given the historical treatment under earlier indirect tax laws.
- They also challenged the valuation rules as arbitrary because taxing the entire stake amount bears no relation to the operator's actual retained revenue.
- Finally, they argued that the 2023 amendments were substantive and should not be applied retrospectively to earlier periods.

4. Questions before the Court

The Supreme Court's examination ultimately turned on four central questions:

- Whether games involving stakes on uncertain outcomes amount to betting and gambling for GST purposes.
- Whether actionable claims arising from such transactions are taxable supplies under the CGST Act.
- Whether GST valuation must be based on the full amount staked or only the platform fee.
- Whether the 2023 amendments are clarificatory and therefore retrospective.

5. An overview of the 2023 amendments

The 2023 GST amendments marked a significant shift in the taxation of online gaming by introducing a dedicated framework for "online money gaming." The amendments expressly brought online money gaming within the GST net by treating actionable claims arising from such activities on par with betting, gambling, casinos, horse racing, and lotteries. Corresponding changes were also made to Schedule III of the CGST Act to ensure that these transactions no longer fell within the exclusion available to certain actionable claims.

Most importantly, the amendments altered the valuation mechanism by providing that GST would be levied on the entire amount paid, payable, or deposited by the player, rather than only on the platform fee or gross gaming revenue earned by the operator. The reforms also addressed concerns of double taxation by excluding already-taxed deposits from repeated taxation when redeployed through player wallets and extended GST compliance obligations to offshore gaming platforms supplying services to users in India. Collectively, these changes aligned online money gaming with casinos and horse racing, effectively subjecting it to GST at 28% on the full face value of player deposits.

6. Supreme Court's Analysis

taxsutra All rights reserved

The Court began by reaffirming that where money is staked on an uncertain future event, the transaction acquires the essential characteristics of betting and gambling. In that setting, the distinction between a game of skill and a game of chance becomes far less important for GST purposes. The legal inquiry focuses on the nature of the right acquired by the participant, not merely the label attached to the game.

On legislative competence, the Court rejected the argument that Parliament had impermissibly widened the constitutional concept of goods. It relied on the established position that actionable claims are recognised in law as movable property and, in a broader sense, as goods. Once GST was introduced through Article 246A, Parliament and the State Legislatures were competent to tax supplies involving such claims within the statutory framework enacted for that purpose.

The Court also held that GST is not confined to the transfer of pre-existing actionable claims. When a player enters a contest by staking money, a contingent right to win comes into existence at that very point. The creation of that right is itself sufficient to constitute a taxable supply. This aspect of the judgment is particularly significant because it broadens the concept of supply beyond mere transfer and anchors taxability in the creation of the participant's conditional entitlement.

In substance, therefore, the Court treated the online gaming arrangement as a single commercial transaction in which the participant pays to obtain a chance-based conditional right, rather than as a mere technology service layered over a separate prize pool.

7. Valuation: platform fee or full stake value?

This was the most commercially important issue. The industry argued that operators retain only the platform fee and merely hold or redistribute the prize pool. The Court, however, examined the transaction from the participant's perspective: what the participant pays for is not simply access to software, but the opportunity to obtain winnings through a conditional right arising from the stake.

On that reasoning, the Court rejected the attempt to isolate the platform fee as the only taxable amount. It held that the stake amount represents the consideration for the actionable claim acquired by the participant. The subsequent distribution of pooled funds to winners does not alter the legal character of the supply.

The Court therefore upheld the valuation rules that compute GST on the full face value of the stakes. It also rejected the submission that the rules were arbitrary merely because they produced a heavier tax burden than a platform-fee model would have produced.

The practical effect is clear: for GST purposes, the operator's actual retained revenue is not the controlling benchmark where the statute treats the underlying supply as an actionable claim in betting and gambling.

taxsutra All rights reserved

In other words, the Court preferred a substance-over-form approach: once the transaction is characterised as the supply of a taxable actionable claim, valuation follows that characterisation and not the operator's internal revenue mechanics.

8. 2023 amendments: prospective or retrospective?

The Court viewed the 2023 amendments as clarificatory rather than substantive. In its view, these changes did not introduce a new levy or a new taxable event; instead, they clarified and standardised how an already existing GST position should operate. On that basis, the amendments were held to apply retrospectively.

That finding considerably strengthens past and pending tax demands and narrows the room for challenges based on the timing of the amendments.

9. Key takeaways

The judgment has consequences well beyond one platform or one business model. It indicates that wherever pooled stakes are placed for uncertain outcomes and participants thereby acquire contingent rights to win, the transaction may be treated as betting and gambling under GST, even if the underlying activity is commonly marketed as skill-based.

Equally important, the ruling confirms that GST may attach not only to the transfer of an existing right but also to the creation of a contingent right. That principle may influence future disputes involving digital platforms and other commercial arrangements where rights arise only upon participation in a transaction.

The Court's approach to valuation is equally notable. It places decisive weight on the consideration paid for the supply as legally characterised, rather than on the operator's net retention. That makes the full stake value the relevant tax base under the present framework.

Finally, by treating the 2023 amendments as clarificatory, the Court has reinforced the continuity of the GST position across past periods. For the industry, that means legacy exposure remains a live and serious concern.

9. What lies ahead

In the near term, the judgment materially strengthens show cause notices and pending proceedings founded on similar arguments. High Court matters that relied on the same lines of challenge are also likely to be affected.

From a policy perspective, attention will now shift to whether the Government considers any relief mechanism for historical exposure, including the possible use of Section 11A of the CGST Act in an appropriate case [Section 11A empowers the Government to regularize past instances of non-payment or short payment of GST arising from a generally prevalent

taxsutra All rights reserved

industry practice, thereby providing a statutory mechanism to resolve widespread interpretational disputes without requiring recovery of tax for the notified period]. Whether such relief emerges will depend less on legal doctrine and more on fiscal policy and industry impact. Until then, online gaming businesses must reassess litigation strategy, provisioning, and business models in light of this game changing judgement opening the path for more demanding GST position.

The views expressed in this article are solely those of the authors. The article is intended for informational purposes only and does not constitute legal, tax, or professional advice. Readers should seek specific professional advice before acting on any matter discussed herein.