

## Policy Brief

# CENTRAL GOODS AND SERVICES TAX (AMENDMENT) BILL, 2023

*The Central Goods and Services Tax (Amendment) Bill, 2023 amends the Central Goods and Services Tax (CGST) Act, 2017. The Act provides for the implementation of decisions of the GST Council to levy a 28% tax on online gaming. The GST Council recommended subjecting actionable claims associated with casinos, horse racing, and online gaming to a uniform 28 percent tax rate, irrespective of the classification of these activities as games of skill or chance. Additional amendments to the provisions of the Central Goods and Services Tax Act, 2017, and the Integrated Goods and Services Tax Act, 2017, have also been proposed. With respect to online gaming and actionable claims in casinos, the Council has proposed assessing their value based on the sum paid or deposited by players to the supplier, excluding previous winnings. This approach contrasts with taxing the total value of each bet placed.*

**KEY PROVISIONS :**

The proposed Central Goods and Services Tax (Amendment) Bill, 2023, inter alia, provides to—

- **Define the expressions online gaming, online money gaming, specified actionable claim, and virtual digital asset within section 2 of the principal act;**
  - Clause (80A)- "Online gaming" means offering of a game on the internet or an electronic network and includes online money gaming;
  - Clause (80B) "online money gaming" means online gaming in which players pay or deposit money or money's worth, including virtual digital assets, in the expectation of winning money or money's worth, including virtual digital assets, in any event including game, scheme, competition or any other activity or process, whether or not its outcome or performance is based on skill, chance or both and whether the same is permissible or otherwise under any other law for the time being in force;'
  - Clause (102A) "specified actionable claim" means the actionable claim involved in or by way of— (i) betting; (ii) casinos; (iii) gambling; (iv) horse racing; (v) lottery; or (vi) online money gaming;'
  - Clause (117A) "virtual digital asset" shall have the same meaning as assigned to it in clause (47A) of section 2 of the Income-tax Act, 1961

- **Insert a provision in the definition of "supplier" to provide clarity regarding "supplier" in case of supply of specified actionable claim in section 2o the principal act.**
  - After Clause (105), the following provision shall be inserted at the end, namely:—  
"Provided that a person who organises or arranges, directly or indirectly, supply of specified actionable claims, including a person who owns, operates or manages digital or electronic platform for such supply, shall be deemed to be a supplier of such actionable claims, whether such actionable claims are supplied by him or through him and whether consideration in money or money's worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and all the provisions of this Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims;"
- Substitute "specified actionable claim" in paragraph 6 of Schedule III of the Act, for the present entries "lottery, betting, and gambling", to provide clarity regarding the taxability of actionable claims involved in or by way of casinos, horse racing, and online gaming;
- **Insert a new clause in section 24 of the Act;**
  - Section 24 of the Principal Act enlists a category of persons required to be registered under the act. A new Sub- clause is inserted to provide for mandatory registration of the person for supplying online money gaming, from a place outside India to a person in India i.e. (xia) 'has every person supplying online money gaming from a place outside India to a person in India'.

## CONCLUSION

- The amendment in IGST Act relates to inserting a provision to impose GST liability on online money gaming provided by offshore entities. Such entities would be required to get GST registration in India. The amendments pertain to the insertion of a provision in Schedule III of the CGST Act, 2017, to provide clarity on the taxation of supplies in casinos, horse racing, and online gaming.
- The Bill paves the way for the implementation of the 28 percent Goods and Service Tax (GST) on the face value of entry-level bets placed on online gaming platforms, casinos, and horse racing. The online gaming industry and some horse racing clubs are currently paying GST at the rate of 18 percent on platform fees/commission ranging from 5 to 20 percent of the full face value, while some horse race clubs are paying 28 percent on the full face value. They are disputing the 28 percent levy on actionable claims in the form of betting and gambling before various legal fora. Casinos, too, are currently paying 28 percent GST on Gross Gaming Revenue (GGR). Levying 28 percent GST on the full face value of entry-level bets would result in increased GST revenues.
- The amendments will also provide for blocking access to online gaming platforms located overseas in case of failure to comply with registration and tax payment provisions. According to government sources, this decision is poised to play a pivotal role in countering money laundering, illicit income, black money, and other unlawful activities linked to online gaming. Furthermore, it is expected to enhance efforts to detect and penalise tax evasion and fraudulent practices. The GST Council has also resolved to assess the impact of these proposed amendments and valuation rules six months after their implementation.