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Money stakes on an Uncertain Outcome – Betting and Gambling – GST leviable irrespective of Game of Chance vs. Skill – Detailed Analyses of SC Judgment

The Hon'ble Supreme Court of India in ***Directorate General of Goods and Services Tax Intelligence (HQ) & Ors. v. Gameskraft Technologies Private Limited & Ors. [Civil Appeal Nos. 8241–8244 of 2026 (arising out of SLP (C) Nos. 19366–19369 of 2023) and connected matters, dated May 27, 2026]*** set aside the judgment dated May 11, 2023 of the High Court of Karnataka and **held that activities conducted on online gaming platforms, fantasy sports platforms and casinos—where players stake money or money's worth upon an uncertain outcome—constitute "betting and gambling" for the purposes of the GST framework, irrespective of whether the underlying game is one of skill or of chance.** The Court ruled that such platforms supply "actionable claims" which are "goods" under Section 2(52) of the CGST Act, that the operators are themselves the suppliers (and not mere intermediaries), and that GST is leviable at 28% on the **full face value of the bet / total amount deposited** and not merely on the platform fee, commission, rake or Gross Gaming Revenue. The Court further held that the October, 2023 amendments (Entry 6 of Schedule III and Rules 31B and 31C) are

clarificatory and therefore **retrospective**, restored the September 23, 2022 show-cause notice raising a demand of roughly ₹21,000 crore against Gameskraft, and remitted the matters to the adjudicating authorities for quantification in accordance with the principles laid down.

Snapshot of the Verdict

Court	Supreme Court of India – Civil / Criminal Appellate and Original Jurisdiction
Bench	Justice J.B. Pardiwala and Justice R. Mahadevan
Lead Matter	*DGGI (HQ) & Ors. v. Gameskraft Technologies Pvt. Ltd. & Ors.* [C.A. Nos. 8241–8244 of 2026]
Tagged With	C.A. No. 8240 of 2026; Criminal Appeal No. 2933 of 2026 (Dream11 / Gurdeep Singh Sachar); 27 Transferred Cases; and 45+ Writ Petitions under Article 32 (E-Gaming Federation, Play Games 24x7, Baazi Networks, Head Digital Works, Games24x7, Delta Corp and other casinos, fantasy and rummy/poker operators)
Reportable	2026 INSC 595 | Pronounced May 27, 2026 | Signed May 29, 2026
Result	Revenue's appeals allowed; Karnataka HC judgment set aside; Bombay HC judgment in Dream11/Gurdeep Singh Sachar set aside; writ petitions and transferred cases dismissed; SCNs restored and remitted for adjudication
Companion	Decided alongside *State of Tamil Nadu & Ors. v. Junglee Games India Pvt. Ltd. & Ors.* [C.A. Nos. 6124–6131 of 2023], where the Court upheld the State Power to ban online betting and gambling games

HELD — In a Nutshell

- **Stakes, not skill, decide taxability.** Once money or money's worth is staked upon an uncertain outcome, the activity is "betting and gambling" for GST, even if the game is predominantly one of skill (rummy, poker, fantasy sports).

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- **Actionable claim = goods.** Organised gaming creates contingent beneficial interests in movable property—actionable claims—which are "goods" under Section 2(52) and a taxable "supply" under Section 7. "Supply" is wider than "transfer".
- **Operator is the supplier.** Gaming companies are not mere intermediaries under Section 9(5); they create, control and supply the actionable claim and are the "taxable persons" under Section 9(1).
- **Tax on full face value.** Consideration under Section 2(31) is the entire stake; valuation under Section 15 read with Rule 31A / 31B is 100% of the face value of the bet / total deposit. No deduction for prize pool, winnings or payouts.
- **Rule 31A is valid.** It is a machinery provision tracing to Sections 15(4), 15(5) and 164, backed by GST Council recommendation; not manifestly arbitrary; not confined to horse racing.
- **October 2023 amendments are clarificatory → retrospective.** Rules 31B/31C and the amended Entry 6 / Section 2(105) merely refine an already-existing levy; they do not create a fresh tax.
- **(vii) Casinos remitted.** GST is on bets, not Gross Gaming Revenue; best-judgment / Rule 31 was permissible, but quantification must be re-done under Rule 31C.

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[I] Background and Factual Matrix

Few questions in fiscal jurisprudence have carried the constitutional weight of the one before the Court: whether an activity traditionally understood in one legal context is transformed in its legal character when mediated through a technology-driven commercial structure. What began as challenges to individual show-cause notices assumed the dimensions of a nationwide constitutional controversy involving transferred cases, writ petitions and special leave petitions, all raising common questions of law on the GST treatment of the rapidly expanding online gaming ecosystem.

The Four-Stage Evolution of the Levy

Senior counsel for the assessees traced the taxation of online gaming through four distinct stages, a history that frames the entire dispute:

- **Pre-2017 (service tax era):** service tax at 14% was levied only on the commission / platform fee earned by the operator.
- **2017 onwards (GST introduced):** GST at 18% continued to be levied only on the commission component, with no change in methodology.
- **2017–2022 (the disputed period):** the Department sought GST at 28% on the entire face value / gross amount staked, despite no change in the governing law or the nature of the activity—allegedly to augment revenue.
- **October 2023 onwards:** Rule 31B (and Rule 31C for casinos) were introduced, with "online money gaming" notified under Section 15(5) and brought to tax at 28% on the full deposit.

The Lead Matter — Gameskraft

By show-cause notice dated September 23, 2022, the DGGI raised a demand of **₹2,09,89,31,31,501/– (approx. ₹21,000 crore)** inclusive of interest and penalty against Gameskraft Technologies (the online rummy operator) and its key managerial personnel under Section 74(1) of the CGST Act, on the premise that rummy played for stakes amounts to "betting and gambling" and that Gameskraft supplied "actionable claims" in the nature of a chance to win. For the period 2017–2022 the entire revenue of Gameskraft was approximately **₹4,650 crore**—a fraction of the demand. The Karnataka High Court, by judgment dated May 11, 2023, quashed the notice, holding that online rummy is a game of skill outside the ambit of betting and gambling. The Revenue's appeal against that quashing is the lead matter.

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The Other Players in the Batch

- **E-Gaming Federation / Play Games 24x7 (W.P. 1374 & 1384 of 2023):** rummy and fantasy operators who paid 18% GST on platform fee (SAC 998439), challenging SCNs reclassifying the activity as betting and gambling on the entire stakes.
- **Baazi Networks (W.P. 268 of 2024):** skill-based poker operator; challenged Section 15(5) and Rule 31A(3).
- **Casinos — Golden Peace, Delta Corp, Britto Amusement, MV Majestic Pride and others:** Goa and Sikkim licensed casino operators paying GST on Gross Gaming Revenue (GGR),

facing demands computed on Gross Bet Value (GBV) running into tens of thousands of crores.

- **Dream11 / Gurdeep Singh Sachar (Criminal Appeal 2933 of 2026):** the Bombay High Court had held fantasy sports to be a game of skill and not gambling; the State of Maharashtra and the Union appealed.

- **Transferred cases and writ petitions:** 27 cases transferred from the High Courts of Calcutta, Sikkim, Gujarat, Rajasthan, Karnataka, Bombay, Madhya Pradesh, Punjab & Haryana, Allahabad, Delhi and Goa, plus over 45 writ petitions under Article 32, all challenging the SCNs and the constitutional validity of Section 9(1) read with 2(52), Section 15(5), Rule 31A(3) and the relevant notifications.

Reliefs Sought — Consolidated

Across the matters, the petitioners broadly prayed for: a declaration that Section 9(1) read with Section 2(52) (taxing actionable claims) is beyond the legislative competence of Parliament; that Section 15(5) is ultra vires Articles 246A and 366(12A); that Rule 31A(3) is unconstitutional, violative of Articles 14, 19(1)(g), 246A and 265, and ultra vires the CGST Act; quashing of Circular No. 27/01/2018-GST, the rate notifications and the impugned SCNs; a declaration that GST is payable only on the commission retained and not on the total value of bets; and a restraint on coercive action.

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[II] Contentions of the Parties

[A] The Revenue — "The Stake is the Gambling" (Mr. ASG)

The Additional Solicitor General opened with the core proposition that gambling necessarily arises whenever stakes are involved, irrespective of whether the underlying game is one of skill or chance. While a game of skill per se may not amount to gambling, the introduction of stakes transforms the activity into gambling. The nature of the underlying game does not alter the character of the betting transaction itself. Statutory exemptions for games of skill played for stakes (in some State enactments) merely shield participants from prosecution; they do not change the intrinsic character of the activity—indeed, the very existence of such carve-outs demonstrates that such games would otherwise be gambling.

Relying on Section 30 of the Indian Contract Act, 1872 (which uses "any game" without distinguishing skill from chance), the ASG argued that wagering, betting and gambling are

cognate expressions sharing three ingredients: (a) the staking of money; (b) an uncertain outcome; and (c) the prospect of a return greater than the amount staked. The GST statutes use "betting and gambling", not "betting on gambling"; the long-settled jurisprudence cannot be diluted by inventing such a distinction.

The Ten "Sutras" of the Revenue

The ASG distilled his case into ten propositions, which the Court reproduced and which frame the entire controversy:

- There is no gambling if no stakes are involved, irrespective of whether the underlying game is skill or chance—consideration being essential for the levy.
- There is gambling once stakes are involved, irrespective of whether the game is skill or chance.
- A game of chance involving even a competition fee is gambling.
- A game of skill is per se not gambling.
- A game of skill, when played with stakes, becomes gambling.
- A game of skill played with stakes, though gambling, does not re-characterise the underlying game from skill into chance.
- Protection by some States for games of skill played with stakes (from penalty/prosecution) is proof that the activity is otherwise gambling.
- Whether skill or chance, playing for stakes makes it gambling, as the outcome is not in the control of the bettor in either form.
- The independent act of betting and gambling is only a chance and remains a chance, irrespective of the underlying game—the preponderance of uncertainty being the same in any game involving betting and gambling.
- Time-tested jurisprudence treats betting and gambling as similar expressions; the GST laws use "betting and gambling", not "betting on gambling".

On Actionable Claims, Supply, Supplier and Valuation

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- **Actionable claim.** Where four players each stake ₹10, the winner receives ₹36 after ₹4 platform commission; at the point of staking, each player holds an equal, conditional beneficial interest in movable property (money), satisfying Section 3 of the Transfer of Property Act. The player has no actual or constructive possession of the pool, which the platform controls—satisfying the second ingredient. Per *Sunrise Associates v. Govt. of NCT of Delhi* [(2006) 5 SCC 603], betting and gambling give rise to actionable claims maintainable before a civil court.

- **Creation, not transfer.** Under GST the taxable event is "supply" (Section 7), not "transfer" as under the sales-tax regime. Relying on *Union of India v. Mohit Minerals Pvt. Ltd.* [(2022) 10 SCC 700], the operator **creates** the actionable claim in favour of the player; both creation and transfer attract GST.

- **Operator is the supplier.** The companies invite players, structure staking, conduct games, collect stakes and distribute winnings; without them no supply occurs. Section 9(5) (Swiggy/Zomato model) is inapplicable because there is no independent inter-se supply between players—the operator itself supplies and receives the entire consideration under Section 9(1).

- **No entrustment / no wager between platform and player.** Once money enters the RC Account / Deposit Segment the player loses dominion; relying on *Carlill v. Carbolic Smoke Ball Co.* and *Pratapchand Nopaji* [(1975) 2 SCC 208], the operator neither wins nor loses, so there is no mutuality and no wagering contract under Section 30—yet the absence of a wager does not negate betting and gambling, of which wager is merely a species.

- **Valuation.** The entire stake is "consideration" (Section 2(31)) and forms the "transaction value" (Section 15(1)). Per *Skill Lotto Solutions Pvt. Ltd. v. Union of India* [(2021) 15 SCC 667], deductions are permissible only where the statute expressly provides; there is no exclusion for winnings. Rule 31A(3) merely reiterates 100% of the face value of the bet, and was introduced on the recommendation of the 25th GST Council Meeting / Fitment Committee.

- **Rate / classification.** 18% under residuary Entry 453 (01.07.2017–24.01.2018) and 28% under Entry 229 thereafter; absence of an HSN/tariff entry is immaterial and only procedural ("any chapter"), as clarified by Circular No. 6/2017 for lotteries.

[B] The Assessees — "Skill is the Antithesis of Gambling"

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Gameskraft submitted that the Revenue's case collapses on the ASG's own admission that rummy is a game of skill. The unifying characteristic of betting, gambling, wagering and gaming is the predominance of chance; such activities form a category mutually exclusive from games of predominant skill. "Betting and gambling" means betting on a game of chance, not betting on a game of skill—a position said to be settled for 75 years through

State of Bombay v. R.M.D. Chamarbaugwala (RMDC-I) [1957 SCR 870], *R.M.D. Chamarbaugwala v. Union of India* (RMDC-II) [1957 SCR 930], *State of A.P. v. K. Satyanarayana* [1967 INSC 269] and *K.R. Lakshmanan v. State of Tamil Nadu* [(1996) 2 SCC 226]. RMDC-I replaced the "scintilla of skill" test with the "preponderance of skill" test, placing skill games under the protection of Articles 19(1)(g) and 301.

- **No actionable claim / unenforceability.** A wager is void under Section 30; a void claim is unenforceable and cannot be an "actionable claim" (which by definition requires civil-court enforceability) or a "good" under Section 2(52).
- **Operator is a custodian / trustee.** Stakes are held in escrow / trust; title never passes to the operator; reliance on the *Quistclose* trust principle (*Barclays Bank v. Quistclose Investments Ltd.* [1970 AC 567], *Twinsectra v. Yardley* [2002 UKHL 12]) and the doctrine of diversion of income by overriding title.
- **Betting and gambling are activities, not goods.** Per *Godfrey Phillips India Ltd. v. State of U.P.* [(2005) 2 SCC 515], Entry 62 List II treats them as activities; GST cannot tax an activity as the supply of a good. Post-101st Amendment, Entry 62 stands curtailed and the field is not revived under Article 246A.
- **The deeming fiction concedes the point.** The 2023 insertion of a deeming fiction in Section 2(105) (operator "shall be deemed to be a supplier") and the new Rules 31B/31C—without touching Rule 31A—prove that, pre-amendment, operators were not suppliers and Rule 31A did not cover online gaming. A deeming fiction presumes a fact that does not exist.
- **Rule 31A is ultra vires Section 15.** Section 15(1) mandates transaction value (price actually paid); Rule 31A(3) artificially deems 100% of the bet, inflating the base; no Section 15(5) notification preceded Rule 31A (unlike Rule 31B, preceded by Notification 49/2023). Tax on the pool converts a tax on "supply" into a tax on "activity".

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- **No machinery / classification.** "Any chapter" means "no chapter"; absent a Customs Tariff entry for actionable claims before 01.10.2023, the levy lacked machinery. Online gaming was OIDAR (a service) under Section 2(17) IGST Act and SAC 998439/999692.

[C] The Casinos — "GGR Not GBV"

The casino operators did not dispute that their activity is betting and gambling; their challenge was confined to valuation and machinery. They contended that the only real consideration is the Gross Gaming Revenue (GGR)—the net retained after payouts—not the Gross Bet Value (GBV). Chips are mere tokens (not goods); the same chips are recycled across tables; it is impossible to track the face value of every bet in real time (the maxim *lex non cogit ad impossibilia*). The "right to win" has zero net value at the moment of the bet because the equal "chance to lose" offsets it. The subsequent insertion of Rule 31C (with a non-obstante clause and a specific casino formula) proves Rule 31A never applied to casinos. Demands computed by dividing GGR by "Hold Ratio" / "House Margin" are arbitrary, confiscatory and violative of Article 14.

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[D] Fantasy Sports — The Revenue's Stand (SG)

For the State of Maharashtra in the Dream11 matter, the Solicitor General submitted that the distinction between skill and chance is irrelevant for GST. Fantasy gaming satisfies every element of betting and gambling: an "entry fee" that is in substance a stake, placed on an uncertain event (the real-world match), with the expectation of a return far greater than the stake. In the alternative, fantasy gaming is "side betting"—participants ride on someone else's skill and merely predict uncertain results. Under Section 15(1) read with 15(2)(c), the full face value of the stake is the value of supply; per

Skill Lotto Solutions, GST on lottery is payable on full face value, and the same principle governs fantasy gaming.

[E] Reply Submissions

The ASG, in rejoinder, contended that the dismissal of earlier SLPs against the fantasy-sports High Court judgments was in limine and, per

Kunhayammed v. State of Kerala [(2000) 6 SCC 359], neither attracts the doctrine of merger nor declares law under Article 141. The issue therefore remained open. He reiterated that the operator creates (not transfers) the actionable claim; that a right in personam (e.g., a private

debt) is equally an actionable claim; and that the GGR model impermissibly nets business expenses against taxable value—relevant only to income tax, not GST, which taxes gross supply. The assessees, in reply, argued that the Revenue had shifted from "chance to win is an actionable claim" to "conditional right in the winning amount", that *Sunrise Associates* concerned a State grant in a lottery (not private gaming), and that money is excluded from "goods" in any event.

[III] Issues for Consideration

The Court framed eleven issues. The operative ones are set out below:

- Whether online gaming activities, including fantasy sports and games played on digital platforms involving staking upon uncertain outcomes, constitute betting and gambling for the purposes of the GST framework.
- Whether Sections 2(31), 2(52), 7, 9 and 15 of the CGST Act, the corresponding State enactments and the Rules, insofar as they tax actionable claims arising from betting and gambling, are constitutionally valid and within the competence traceable to Articles 246A and 366(12A).
- Whether actionable claims arising from betting and gambling fall within "goods" and constitute taxable supplies under Sections 2(1), 2(31), 2(52), 7, 9 and Entry 6 of Schedule III, and whether their inclusion in "goods" under Section 2(52) is valid.
- Whether "supply" under Section 7 is confined only to transfer of pre-existing actionable claims, or extends to other forms of supply—and whether organised betting arrangements themselves give rise to actionable-claim interests constituting taxable supplies notwithstanding the absence of transfer.
- What constitutes "consideration" under Section 2(31) for such supply, and whether the measure of valuation is validly provided under Section 15 read with the valuation Rules.
- Whether Rule 31A of the CGST Rules is intra vires Sections 15 and 164, and whether the valuation mechanism is violative of Article 14 / manifestly arbitrary.
- Whether the 2023 amendments (amended Entry 6 of Schedule III; Rules 31B and 31C) are clarificatory and retrospective, and whether Rule 31B is violative of Article 14.

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- Whether, in online gaming and fantasy sports, the operators merely facilitate inter-se transactions between participants or are themselves suppliers of the actionable claims.

- Whether valuation of online gaming / fantasy sports must be determined under Rule 31B (including for pending SCNs and demands).

- Whether valuation of casino transactions must be under Rule 31C, and whether the Department was justified in resorting to Rule 31 / best-judgment under the pre-amendment framework.

- Whether the impugned SCNs, adjudication proceedings, valuation methodologies and demands against online gaming operators, fantasy platforms and casinos are sustainable in law.

[IV] Analysis and Findings of the Court

The Hon'ble Supreme Court held as under:

[A] Betting and Gambling — The Foundational Holding

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The Court began by noting that the broader constitutional questions on the State's power to regulate / prohibit betting and gambling already stood concluded in the companion judgment in Junglee Games (supra), where the Court upheld the State bans and held that once the element of betting or gambling enters the activity, the intrinsic nature of the underlying game (skill or chance) loses significance.

Observed that, every game—whether of skill or chance—involves an outcome uncertain at the commencement of play. A game of skill depends only upon one's ability to control the outcome to a substantial degree; where the degree of control is minimal in comparison to uncontrollable variables, the game loses its character as one of skill. In either case, once money or money's worth is risked upon an uncertain outcome, the activity acquires the character of betting and gambling, irrespective of whether the game involves skill, chance or a combination thereof.

Noted that, the determinative factor is the staking of money upon uncertain outcomes. The distinction between games of skill and games of chance becomes relevant only where a statute expressly protects games of skill irrespective of stakes; in the absence of such statutory

protection, staking upon uncertain outcomes retains the character of betting and gambling. The medium—online or offline—is immaterial.

The Crucial Entry-Fee vs Stake Distinction (extracted from Junglee Games)

The Court reproduced the reasoning that distinguishes a genuine skill competition from a gambling adventure—a distinction central to the entire GST controversy:

"In a prize competition involving an entry fee, when the underlying competition is skill based, the entry fee would be for obtaining a right to participate in the competition. The entry fee cannot be construed as stake amount placed on the unknown and uncertain outcome of the competition. This is because, unlike an entry fee paid for a gambling adventure, in a skill based competition, the prize money is never linked to the bet or stake amount. With utmost certainty, in a gambling adventure, the pool money assured to the winner is always linked to the bet or stake amount."

"If for any reason … it is found that the entry fee partakes the character of a stake … then it would become betting and gambling. On the other hand, if it retains its character only as an entry fee and the organizers reward the winner with the trophy or a cash prize … announced in advance, then it is in the nature of a reward … and would not take the colour and character of a bet amount."

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Held that, the online gaming companies had not floated tournaments with winners announced in advance; their terms and conditions were a clear invitation to place stakes on the uncertain outcome of each game, where each game has a winner. The platforms operate as a "systematic inducement technique"—discounts, incentives for repeated betting, retention of winnings before withdrawal—which never happens in a genuine skill competition.

Held further that, the much-relied-upon reading of RMDC-I/II and K.R. Lakshmanan—that games of skill played for stakes are not gambling—does not flow from those decisions; "when what does not flow from RMDC-I (supra) has been canvassed for 70 years as if emanating from RMDC-I (supra), the same is erroneous and requires a course correction." The Court emphasised:

"The expression 'betting and gambling' cannot be split to mean that the staking angle alone would amount to betting whereas the risk angle or the chance element would amount to gamble. Both betting and gambling involve the aspect of staking money on an uncertainty … to even remotely suggest that RMDC-I (supra) is good law for the proposition that a game

<u>of skill being played with stakes enjoys constitutional protection is incorrect and deserves to be rejected.”</u>

The Court therefore distilled the three ingredients of betting and gambling: (a) there must be a stake / bet; (b) placed on the result of an uncertain outcome; and (c) with a hope of gaining substantially more than what is staked. “When the element of betting and gambling enters the picture, the nature of the game ceases to be of relevance.”

[B] Constitutional Validity of the Levy

Held that, with the Constitution (One Hundred and First Amendment) Act, 2016, the field of betting and gambling (formerly Entry 62 List II) stood subsumed within the comprehensive GST framework under Article 246A, which confers simultaneous competence on Parliament and the States. By virtue of Article 246A, the legislature is competent to levy GST on supplies relating to betting and gambling.

Noted that, the GST legislation neither creates a new taxable field beyond competence nor artificially expands “betting and gambling”. The taxable event is not the abstract game but the supply of actionable claims arising from the staking of money on uncertain outcomes. “Merely because such actionable claims arise out of betting and gambling does not transform the levy into a direct tax on the activity of betting and gambling simpliciter.”

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Held that, the challenge that Parliament lacked competence to classify actionable claims as “goods” fails. Article 366(12) is an inclusive definition (“goods includes all materials, commodities and articles”) and does not freeze the concept to the Sale of Goods Act, 1930. Relying on

Tata Consultancy Services v. State of A.P. [(2005) 1 SCC 308], *Sunrise Associates* and *Skill Lotto Solutions*, the Court reaffirmed that actionable claims are “goods” in the wider sense—“were actionable claims … not otherwise includible in the definition of goods, there was no need for excluding them” under the sales-tax laws. The inclusion in Section 2(52) is in line with the Constitution Bench in *Sunrise Associates* and is valid.

Held that, the challenge under Articles 14, 19(1)(g), 21 and 265 is rejected. Betting and gambling are res extra commercium, attracting no Article 19(1)(g) protection; commercial hardship, reduced profitability or a heavier tax burden cannot by themselves render a fiscal measure unconstitutional; Article 21 has no application in the fiscal context; and the levy, being traceable to Sections 7, 9 and 15 read with Schedule III, satisfies Article 265. The Court

reiterated the wide latitude available to the legislature in fiscal matters, quoting Cooley on Taxation and

Jindal Stainless Ltd. v. State of Haryana [(2017) 12 SCC 1] on taxation as an essential attribute of sovereignty.

[C] Supply, Actionable Claims and the Nature of the Transaction

Held that, Section 7 employs expressions of the widest amplitude—"includes", "all forms of supply" and "such as"—and the enumerated forms (sale, transfer, barter, exchange, licence, rental, lease, disposal) are merely illustrative. Relying on

Union of India v. Mohit Minerals Pvt. Ltd., the Court held that "supply" is defined "with a broad brush" and that the GST regime marks a decisive departure from the earlier sale-centric / transfer-based model. "The taxable event under GST is not confined to traditional sale-centric concepts but extends to all legally recognised forms of economic supply."

Noted that, an actionable claim (Section 3, Transfer of Property Act, adopted by Section 2(1) CGST Act) requires (a) a claim to a beneficial interest in movable property; (b) the property not being in the actual or constructive possession of the claimant; and (c) a claim recognised by civil courts as affording grounds for relief—and the beneficial interest "may be existing, accruing, conditional or contingent." When a participant stakes money upon an uncertain event, a contingent beneficial interest capable of maturing into an enforceable claim comes into existence.

Held that, the contention that actionable claims arise only from sovereign / State grants is misconceived—a debt from a purely private transaction is the classic actionable claim. The reliance on

Anraj and *Sunrise Associates* to confine actionable claims to State grants is misplaced; those decisions arose under the sales-tax regime where "sale" / transfer of title was the taxable event. *Sunrise Associates*, properly read, holds that a lottery ticket is a single actionable claim and is not authority that actionable claims arise only from grants.

Held that, the GST framework does not require transfer of a pre-existing actionable claim; the Revenue's case is one of creation of the claim within the organised gaming framework, and the taxable event is the occurrence of "supply" under Section 7 read with Entry 6 of Schedule III, which affirmatively brings actionable claims arising from betting and gambling within the

tax net. The subsequent discharge or extinguishment of the contingent claim upon the gaming outcome does not negate the taxable supply.

[D] Consideration, Valuation and the Measure of Levy

Noted that, Section 15(1) fixes the value as the "transaction value … the price actually paid or payable", and Section 2(31) defines "consideration" expansively ("in respect of", "in response to", "for the inducement of"). In betting and gambling, participation is conditional upon payment of the stake; "since the supply itself cannot arise independent of payment of the stake amount, the same legitimately enters the valuation mechanism contemplated under Section 15(1)." The stake is neither collateral nor incidental but "the very basis upon which the organised betting and gambling framework operates."

Held that, the measure of a tax need not be identical to the taxable event; it need only bear a reasonable nexus with it. Relying on

Mineral Area Development Authority v. SAIL [(2024) 10 SCC 1] and *Union of India v. Bombay Tyre International Ltd.* [(1984) 1 SCC 467], the Court held that *"the measure adopted as the standard … may indicate the nature of the tax but it does not necessarily determine it."* Hence taking the entire stake as the measure does not convert the levy into a tax on an activity.

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On the "deposit" argument under the proviso to Section 2(31), the Court held that the proviso applies only so long as the amount retains the character of a refundable deposit not yet appropriated; once appropriated towards participation, it ceases to be a deposit and becomes consideration. The Court set out the sequence:

- **(i)** So long as the amount is a refundable deposit not yet irrevocably appropriated, the proviso to Section 2(31) may operate;
- **(ii)** Once the stake is appropriated towards participation, the taxable supply crystallises and the amount simultaneously becomes consideration;
- **(iii)** Since participation is conditional upon payment, the same is the price actually paid or payable under Section 15(1); and
- **(iv)** The stake amount legitimately enters the transaction value of the supply.

Held that, per

Skill Lotto Solutions, the GST regime proceeds on gross valuation; exclusion of prize money / winnings is impermissible absent a statutory exclusion (Section 15(3) does not provide one). *"The GST regime is … unconcerned with the subsequent manner in which the supplier may utilise, distribute or account for the consideration received after the supply comes into existence."*

[E] Supply of Goods or Supply of Services?

Held that, once the supply is characterised as one involving actionable claims arising from betting and gambling, it is "goods" under Section 2(52); Notification No. 11/2017 (services) cannot govern it. SAC 998439 covers online content / games played simpliciter without staking; SAC 999692 (gambling and betting services) applies only where the platform renders facilitative or intermediary services. The mere use of internet technology does not convert every transaction into a service. "Once the platform facilitates staking upon uncertain outcomes … giving rise to actionable-claim interests … the transaction ceases to remain one of mere technological or facilitative services." The OIDAR definition under Section 2(17) IGST Act does not conclusively determine the character of the supply, and the 2023 carve-out of "online money gaming" does not imply prior classification as a service.

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[F] Rate of Tax and Validity of Notifications

Held that, for 01.07.2017–24.01.2018, the residuary Entry 453 of Notification No. 1/2017 prescribed 9% CGST; from 25.01.2018, Entry 229 of Schedule IV (inserted by Notification No. 6/2018) prescribed 14% CGST (28% total) on "actionable claim in the form of chance to win in betting, gambling or horse racing in a race club." The absence of a specific HSN / tariff entry is immaterial—"any chapter" means any chapter of the First Schedule to the Customs Tariff Act, as clarified by Circular No. 6/2017-CGST for lotteries. "HSN classification is … not determinative of the validity of the levy itself." The circulars and FAQs are contemporaneous administrative exposition and do not create the levy, which is traceable to Sections 2(1), 2(52), 7, 9(1) and Entry 6 of Schedule III read with the rate notifications.

[G] Validity of Rule 31A of the CGST Rules

Held that, Rule 31A neither creates a new levy nor expands the charging provision; the levy flows from Sections 2(1), 2(52), 7 and 9 read with Entry 6 of Schedule III. Rule 31A is a machinery provision that merely operationalises the valuation already contemplated under Section 15, prescribing 100% of the face value of the bet as the value of supply. "Rule 31A(3) prescribes nothing more than what Section 15(1) itself contemplates."

Held that, the requirement common to Sections 15(4), 15(5), 164 and 2(87) is the recommendation of the GST Council, which was satisfied: the Fitment Committee's Agenda Items 48–51 (recommending that betting, gambling and horse racing be taxed at 28% on the face value of the bet to prevent deduction of prize money) were approved at the 25th GST Council Meeting and merged into the Council's recommendations. "The contention that Rule 31A lacks recommendation of the GST Council is therefore factually unsustainable."

Held that, even independently of Section 15(4), Rule 31A is sustainable under the general rule-making power in Section 164; and per Section 164(3) and

State of Madhya Pradesh v. Tikamdas [(1975) 2 SCC 100], delegated legislation may validly operate retrospectively where the parent statute so authorises. The absence of a prior Section 15(5) notification does not invalidate Rule 31A once it is traceable to Sections 15(4) and 164 and backed by Council recommendation.

Held that, Rule 31A(3) is not confined to horse racing. The disjunctive "or" in "betting, gambling or horse racing in a race club" separates the categories; the two limbs (100% of face value of the bet / amount paid into the totalizator) demonstrate that the first limb applies generally to betting and gambling. "The interpretation canvassed by the assessees would render substantial portions of the Rule otiose."

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Held that, the expression "chance to win" does not mean "game of chance" in the jurisprudential sense—"it merely describes the opportunity afforded to participants to win upon staking money on an uncertain event" and the nature of the actionable claim supplied. The Court noted the inherent contradiction in the assessees arguing simultaneously that the Rule is confined to horse racing (itself judicially recognised as a game of skill) and that it applies only to games of chance. "Rule 31A is intra vires the CGST Act and constitutes a valid exercise of delegated legislation … not manifestly arbitrary, discriminatory, [or] violative of Article 14."

[H] The 2023 Amendments — Clarificatory and Retrospective

Held that, the 2023 amendments (insertion of "online gaming", "online money gaming" and "specified actionable claim"; substitution of Entry 6 of Schedule III; the deeming proviso to Section 2(105); and Rules 31B and 31C) "neither create a fresh levy nor introduce a new taxable event for the first time." Taxability of actionable claims from betting and gambling already stood recognised under the pre-amendment framework; the amendments "principally operate to provide greater statutory specificity and are clarificatory in nature."

Noted that, Rule 31B values online (money) gaming at the total amount paid / payable / deposited with the supplier; Rule 31C values casino supplies at the amount paid for chips / tokens / participation. The Explanations clarify that winnings re-deployed without withdrawal are not a fresh deposit—so GST attaches once to the value entering the ecosystem, not repeatedly on each act of staking funded from the same deposit.

Held that, applying

Zile Singh v. State of Haryana [(2004) 8 SCC 1], *CIT v. Vatika Township Pvt. Ltd.* [(2015) 1 SCC 1], *Ghanashyam Mishra & Sons v. Edelweiss ARC* [(2021) 9 SCC 657], *CIT v. Gold Coin Health Food* [(2008) 9 SCC 622] and *State Bank of India v. V. Ramakrishnan* [(2018) 17 SCC 394], a declaratory / curative amendment that explains an earlier law or removes doubts operates retrospectively. The use of a non-obstante clause is a recognised device to confer overriding effect and does not militate against the clarificatory character. Protection against retrospectivity extends only to vested / accrued rights; taxability already existing, the challenge to retrospective application fails.

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[I] Online Gaming — Application to the Facts

Held that, the organised gaming framework gives rise to a contingent beneficial interest in movable property. Once participants pool stakes, an identifiable pooled stake fund (present movable property) comes into existence, and each participant simultaneously acquires a contingent beneficial interest (the "chance to win") therein—"the contingent beneficial interest comes into existence immediately upon placement and pooling of stakes." The first ingredient of an actionable claim is satisfied.

Held that, on the second ingredient, the players do not retain actual or constructive possession. Examining Gameskraft's Terms and Conditions—the RC Account, the "Deposit Segment", the "Withdrawable Segment", KYC thresholds and withdrawal controls—the Court held that "once amounts stand committed towards gameplay, they cease to remain freely withdrawable … the player relinquishes effective dominion and control over the deposited amount even prior to the commencement of gameplay."

Held that, the arrangement is not an entrustment or a refundable deposit: "the essential feature of continuing reclaimability … is therefore absent once the stake amount stands appropriated." The Quistclose principle is inapplicable because its foundational feature—retention of continuing beneficial control by the depositor—is absent.

Held that, on the third ingredient (enforceability), Section 30 of the Contract Act renders a wagering promise void but "does not render every collateral, ancillary or connected transaction illegal or void ab initio." The organised platform structure creates legally cognizable rights and obligations between participant and operator (RC Accounts, payout obligations, withdrawals) independent of any wager inter-se players. "To hold otherwise would lead to manifestly anomalous consequences whereby the platform could receive and control stake amounts … while participants remain altogether devoid of legally cognizable rights." The contingent prize entitlement, like a lottery ticket in Sunrise Associates, is recognised in law as affording grounds for relief.

Held that, the operators are the suppliers, not mere intermediaries. "The entire transaction originates, operates and culminates through the platform architecture controlled by the gaming company … Without the platform structure, no actionable-claim interest capable of participation could arise at all." Players neither know nor choose their opponents (the algorithm matches on stake amounts), so there is no privity or mutuality constituting an inter-se supply. Section 9(5) is inapplicable (no independent underlying supply, unlike Swiggy/Zomato). The amended proviso to Section 2(105) statutorily reinforces this.

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Online Gaming — The Seven Operative Holdings

- Staking on uncertain outcomes gives rise to and constitutes a supply of actionable-claim interests within organised betting and gambling frameworks.
- The online gaming companies are themselves the suppliers under Sections 2(105) and 7 of the CGST Act.
- The actionable-claim interest arises once stakes are appropriated towards participation; the taxable supply is then attracted.
- Participants do not retain actual / constructive possession; the arrangement is not entrustment or deposit under the proviso to Section 2(31).
- The amount staked is "consideration" under Section 2(31); valuation is governed by Rule 31B.
- There is no statutory basis to exclude winnings, prize pools or payouts from taxable value.

- (vii) GST on the statutory valuation measure (the deposit for online money gaming under Rule 31B) is valid.

[J] Fantasy Sports

Held that, the earlier dismissals of SLPs against the Bombay (Gurdeep Singh Sachar), Punjab & Haryana (Varun Gumber) and Rajasthan (Chandresh Sankhla / Avinash Mehrotra) High Court judgments were in limine and, per

Kunhayammed, neither attract the doctrine of merger nor declare law under Article 141. The liberty granted to the Union to seek review on the GST aspect would be "illusory" if the foundational question of betting and gambling were foreclosed; and the Bombay HC judgment itself stood stayed on 06.03.2020. The issue therefore remained open.

Held that, even if participants deploy sporting knowledge and predictive skill in selecting virtual teams, "once money or money's worth is staked upon uncertain future outcomes with the expectation of contingent monetary gain" the activity is betting and gambling. The amounts paid are pooled stakes, not mere access charges. Notably, the Court observed that "if a player himself participates in the game in which he is involved, it can also amount to fixing," and that the fantasy participant "merely predicts future contingencies and stands to gain or lose money depending upon how those contingencies unfold."

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Held that, having successfully avoided service tax under the erstwhile regime by contending (in the Order-in-Original dated 09.12.2022) that fantasy sports involve supply of actionable claims excluded from "service" under Section 65B(44), the assessees cannot now contend under GST that no actionable claim exists—"a party cannot … approbate and reprobate or 'blow hot and cold'." The principles governing online gaming apply mutatis mutandis; valuation is under Rule 31B.

[K] Casinos — GBV, Not GGR, but Remitted to Rule 31C

Held that, there is no dispute that casino activity is betting and gambling; the controversy is confined to valuation. An actionable claim arises in casino play just as in online gaming—the chips / tokens are merely the medium. "GST is attracted upon a taxable supply and not upon the profitability of the supplier … GST is not a tax on profits." The GGR model impermissibly nets payouts and losses against receipts, an exercise relevant to income tax but alien to GST:

"The inevitable consequence of this submission is that the existence of consideration becomes contingent upon the outcome of the game. Such a proposition cannot be accepted in law … The gambling activity conducted by the Casino remains identical irrespective of whether a player wins or loses."

Held that, Rule 31C does not imply casinos were outside the valuation framework earlier; Rules 31 and 31A provided a sufficient basis, and recourse to Rule 31 / best-judgment (the "House Advantage Method") was not impermissible where the casinos failed to maintain complete contemporaneous records of bets. "Mere reliance upon mathematical reconstruction, statistical extrapolation or inferential methodologies cannot by itself invalidate an assessment."

Directed that, having held Rule 31C to be clarificatory and retrospective, the actual computation of taxable value must now be re-examined and aligned with Rule 31C (the amount paid for chips / tokens / participation), not by reconstructing the face value of individual bets. "While the legality of resorting to Rule 31 and best judgment methodologies … is upheld, the correctness of the actual computations, assumptions, proportional allocations and corresponding tax liability shall remain open for reconsideration by the adjudicating authority in accordance with Rule 31C."

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[V] The Apex Court's Conclusions

The essential element of betting and gambling lies in staking money or money's worth upon uncertain outcomes; the character does not depend on whether the game is skill or chance. Even where the activity involves substantial skill, once participation is conditioned upon staking, it acquires the character of betting and gambling for GST. Online gaming, fantasy sports and games involving staking constitute betting and gambling for GST.

Sections 2(31), 2(52), 7, 9 and 15 of the CGST Act and the State enactments, insofar as they tax actionable claims from betting and gambling, are constitutionally valid and traceable to Article 246A. The levy is on the taxable supply of actionable claims, not on the activity of betting / gambling simpliciter.

The levy does not transgress Articles 366(12) or 366(12A); the inclusion of actionable claims in "goods" (Section 2(52)) and the levy under Section 9(1) are valid. The challenge to Sections 2(52) and 9(1) is rejected.

The challenge under Articles 14, 19(1)(g), 21 and 265 is rejected; commercial hardship, lower profitability or a heavier burden cannot render a fiscal measure unconstitutional.

Once the levy, taxable event and valuation framework are sustained, Rules 31A, 31B and 31C cannot be invalidated by reiterating the same constitutional challenge against the parent levy.

"Supply" under Section 7 is not confined to transfer of pre-existing actionable claims; organised betting and gambling arrangements within which actionable-claim interests arise are taxable supplies notwithstanding the absence of transfer.

Organised gaming / betting platforms create the ecosystem within which participants acquire contingent beneficial interests (actionable claims). The amount staked / appropriated is "consideration" under Section 2(31); there is no statutory basis to exclude prize pools, winnings or payouts. Valuation is under Section 15 read with the applicable Rules.

Rule 31A is intra vires the CGST Act, a valid machinery provision; it is not manifestly arbitrary or violative of Article 14.

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The 2023 amendments (amended Entry 6; Rules 31B and 31C) are clarificatory and explanatory and consequently retrospective; they create no fresh levy. Rules 31B and 31C are valid machinery and valuation provisions.

Online gaming operators are not mere intermediaries but suppliers of actionable claims; the taxable supply arises upon placement / appropriation of stakes. Valuation of online gaming and fantasy sports is governed by Rule 31B, including for pending SCNs and demands; the principles apply equally to fantasy sports and analogous formats.

For casinos, recourse to Rule 31 / best-judgment under the pre-amendment framework was permissible absent complete records; however, the actual determination and computation of taxable value must be aligned with Rule 31C, with all computational objections kept open before the adjudicating authority.

The constitutional and statutory challenges to the levy of GST on actionable claims from betting and gambling are rejected; the CGST Act provisions, the State enactments, Rules 31A, 31B and 31C and the connected notifications, circulars and instruments are upheld.

[VI] The Result and Operative Directions

- **Writ petitions and transferred cases** dismissed, subject to the observations and directions in the judgment.

- **Time to reply to SCNs:** Eight weeks from receipt of the judgment; the competent authority to pass orders within twelve weeks thereafter, in light of the findings.

- **Appeals against assessment orders:** to be filed within twelve weeks; the appellate authority to decide expeditiously.

- **Civil Appeal Nos. 8241–8244 of 2026 (Revenue):** disposed of; the Karnataka HC judgment dated 11.05.2023 is set aside; the Gameskraft SCN dated 23.09.2022 (₹21,000 crore) under Section 74(1) stands restored, with liberty to file replies and raise all factual and legal submissions before the adjudicating authority.

- **Civil Appeal No. 8240 of 2026 (P Z Skill Games licence):** disposed of; the licence application, if pending, to be decided within twelve weeks.

- **Criminal Appeal No. 2933 of 2026 (Dream11 / Gurdeep Singh Sachar):** the Bombay HC judgment dated 30.04.2019 is set aside to the extent it held the transactions to be actionable claims other than betting and gambling; appeal allowed.

- **All interim orders** in the connected matters stand vacated; no order as to costs.

[VII] Our Comments and Analysis

In over two decades of practice at the indirect-tax bar, one rarely encounters a judgment that simultaneously rewrites a doctrine settled for three-quarters of a century, validates a retrospective demand estimated at nearly ₹1.5 lakh crore across the sector, and recasts the very identity of an entire digital industry. This is that judgment. The analysis below is intended to help operators, in-house teams and fellow practitioners read past the headline and understand precisely what was decided, what was left open, and what can still be done.

[1] The Doctrinal Pivot — From 'Preponderance of Skill' to 'Presence of Stakes'

For 75 years the industry rested on a single load-bearing pillar: a game of skill played for stakes is not gambling. That pillar was built on RMDC-I, RMDC-II, Satyanarayana and K.R. Lakshmanan. The Court has now held that this reading "does not flow on an explicit reading of RMDC-I" and "requires a course correction." The new touchstone is binary and brutal in its simplicity: the moment money is staked on an uncertain outcome, the activity is betting and gambling—skill

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is constitutionally irrelevant unless a statute expressly carves it out, and such carve-outs only shield from penal consequences, not from tax. For GST purposes, rummy, poker and fantasy sports now sit in the same bucket as roulette.

The single most important sentence for taxpayers to internalise is the entry-fee / stake dichotomy: in a genuine skill competition the prize is announced in advance and is unlinked to the pool; in a gambling adventure the winner's pool is always linked to the stakes. Because online operators ran continuous, pool-linked games rather than fixed-prize tournaments, they fell on the wrong side of the line. Any future skill-platform that wishes to stay outside the net must structure its product as a fixed-prize, advance-announced tournament with prizes de-linked from participant pools—a structural redesign, not a labelling exercise.

[2]. The Statutory Architecture Invoked

The verdict rests on a tight chain of provisions, and it is worth setting out how each link was forged:

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- **Section 2(1) + Section 3, Transfer of Property Act —** the "chance to win" is a contingent beneficial interest in movable property (the pooled stakes), and therefore an actionable claim.

- **Section 2(52) —** actionable claims are "goods"; the inclusive Article 366(12) and the Constitution Bench in Sunrise Associates / Skill Lotto seal this.

- **Section 7 + Entry 6, Schedule III —** "supply" is wider than "transfer" (Mohit Minerals); actionable claims from betting and gambling are the lone survivors of the Schedule III exclusion, hence taxable.

- **Section 9(1) + Section 2(105) —** the operator (not the players inter se, not a Section 9(5) e-commerce intermediary) is the supplier and the taxable person.

- **Section 2(31) + Section 15(1) —** the entire stake is "consideration" and "transaction value"; the deposit proviso falls away on appropriation.

- **Sections 15(4), 15(5), 164 + Rule 31A/31B/31C —** the valuation machinery, validated as Council-backed delegated legislation, fixing 100% of the face value / deposit with no deduction for winnings (Skill Lotto).

[3] The 'Creation v. Transfer' Masterstroke — and Its Soft Spot

The Revenue's most elegant move was conceptual: it abandoned any claim that an actionable claim is transferred from operator to player (which would have run into Section 30 and the lottery-grant jurisprudence) and argued instead that the operator creates the claim. Because GST taxes "supply" and not "transfer", creation suffices. The Court accepted this. Yet there is a doctrinal tension the assessees will mine on review: Rule 31A(3) speaks of an actionable claim "in the form of chance to win," language that arguably presupposes a transfer of a pre-existing right rather than its first-time creation. The Court answered this by anchoring the levy to Section 7 (supply) rather than the Rule, but the friction between a "creation" theory and a Rule worded for "transfer" is real and will be re-argued.

[4] Retrospectivity — The Most Vulnerable Holding

If any limb of this judgment invites a review or a larger-bench reference, it is the holding that the 2023 amendments are "clarificatory" and therefore retrospective. The assessees' structural argument is formidable and was, in my respectful view, not fully neutralised:

- **The deeming fiction.** The 2023 proviso to Section 2(105) deems the operator "to be a supplier." A deeming fiction, as the Court itself acknowledged citing *Union of India v. Rajeev Bansal*, "is a presumption in law that a thing or facts exist even though, in reality, it does not exist." If the operator was already a supplier, why deem it so?

- **Rule 31A left untouched.** The legislature inserted Rules 31B and 31C with non-obstante clauses while leaving Rule 31A intact—ordinarily a strong signal (Balaji Enterprises) that the new entries cover a field the old one did not.

- **Section 15(5) notification only in 2023.** Notification No. 49/2023 notified "online money gaming" under Section 15(5) for the first time; notifications, unlike rules, generally operate prospectively.

The Court met these with Vatika Township, Zile Singh and the "removal of doubts" doctrine, holding that taxability pre-existed and only the machinery was refined. Whether a deeming fiction and a fresh Section 15(5) notification can be reconciled with "mere clarification" is the open constitutional nerve of this case. Practitioners should preserve this ground in every reply and appeal.

[5] The Economics — Why the Demand Dwarfs the Revenue

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The valuation holding is where the commercial pain lives. On a ₹100 deposit under the old platform-fee model, GST was roughly ₹1.5–₹1.8 (18% on a ₹10 fee). Under the face-value model upheld here, it is ₹28 (28% on ₹100)—a 15-to-18-fold jump. Because winnings churn (a player redeploys the same money across many games), the cumulative "face value" over a period can exceed total deposits many times over, which is precisely how a single operator's demand (₹21,000 crore on Gameskraft) came to exceed its entire revenue (₹4,650 crore). The Court's answer—that GST taxes gross supply, not profit, and that the measure need only bear a reasonable nexus with the taxable event (Mineral Area Development Authority, Bombay Tyre)—is doctrinally orthodox but commercially devastating. The one mercy is the Explanation to Rules 31B/31C: re-deployed winnings are not a fresh deposit, so tax attaches once at the point of entry, not on every subsequent stake funded from that entry. For the pre-Rule-31B period, however, the treatment of redeployment is precisely the kind of factual / quantification dispute the Court has left open for adjudication.

[6] The Casino Nuance — A Partial, Hidden Win

Read carefully, the casino segment is the only place the operators salvaged something. The Court rejected GGR as the measure but also rejected the Department's Gross Bet Value (GBV) reconstruction as the final word: having held Rule 31C clarificatory and retrospective, it remitted quantification to be re-done under Rule 31C—which values the supply at the amount paid for chips / tokens / participation, not at the reconstructed face value of every recycled bet. This is materially narrower than GBV (which extrapolated from "House Advantage" over a 66-day sample across five years). Casino operators should therefore press, before the adjudicating authority, that Rule 31C's "amount paid for chips" measure—not the GBV extrapolation—governs even the pre-2023 period, given the retrospectivity finding. The maxim *lex non cogit ad impossibilia* and the documented impossibility of game-wise bet tracking remain live before the fact-finder.

[7] Pari Materia and Reinforcing Authority

The judgment is fortified by, and consistent with, a clear line of authority:

- *Skill Lotto Solutions Pvt. Ltd. v. Union of India* [(2021) 15 SCC 667] — GST on lottery is on full face value; no deduction of prize money absent statutory exclusion; actionable claims are validly "goods." Directly applied.

- *Sunrise Associates v. Govt. of NCT of Delhi* [(2006) 5 SCC 603] — (Constitution Bench) a lottery ticket is a single actionable claim; actionable claims are "goods" in the wider sense. The backbone of the "goods" holding.

- *Union of India v. Mohit Minerals Pvt. Ltd.* [(2022) 10 SCC 700] — "supply" defined with a "broad brush"; GST is supply-centric, not transfer-centric. Foundation of the "creation = supply" holding.

- *Tata Consultancy Services v. State of A.P.* [(2005) 1 SCC 308] — intangible / incorporeal property can be "goods."

- *Mineral Area Development Authority v. SAIL* [(2024) 10 SCC 1] & *Bombay Tyre International* [(1984) 1 SCC 467] — the measure of tax need not be identical to the taxable event, only reasonably connected.

- *Vatika Township* [(2015) 1 SCC 1] & *Zile Singh* [(2004) 8 SCC 1] — declaratory / clarificatory amendments operate retrospectively.

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The Contrary Line — Now Displaced

The judgment expressly displaces (for GST purposes) the protective reading of:

RMDC-I [1957 SCR 870], *RMDC-II* [1957 SCR 930], *State of A.P. v. K. Satyanarayana* [1967 INSC 269] and *K.R. Lakshmanan* [(1996) 2 SCC 226], and overrules the line of High Court decisions—*Junglee Games (Madras), Head Digital Works (Kerala), All India Gaming Federation (Karnataka)* and the Karnataka HC's own *Gameskraft* ruling—that treated skill games played for stakes as outside betting and gambling. *Godfrey Phillips* [(2005) 2 SCC 515] (betting and gambling are "activities") was distinguished on the footing that GST taxes the supply of the actionable claim, not the activity. The *Quistclose* / trust and "diversion by overriding title" defences were rejected for want of continuing depositor control.

[8] What Remains Open — The Battlefield Has Shifted, Not Closed

The constitutional war is lost, but several factual and statutory skirmishes survive and should be vigorously contested in adjudication and appeal:

- **Section 74 vs Section 73 — the strongest residual argument.** The Gameskraft and most online SCNs were issued under Section 74, which requires fraud, wilful misstatement or suppression with intent to evade. Where the GST treatment was the subject of a bona

fide, decades-long interpretational dispute (indeed blessed by a High Court), there can be no "intent to evade." The Court itself noted that Section 74 cannot be invoked where the issue was a legitimate interpretational debate. If Section 74 fails, the extended limitation period and the equal penalty collapse, dramatically shrinking the demand even if the principal tax stands.

- **Quantification and limitation.** Every demand must still survive arithmetic scrutiny—particularly casinos (Rule 31C vs GBV) and the treatment of redeployed winnings in the pre-Rule-31B period. The Court expressly kept "all factual and computational objections" open.

- **Penalty and interest.** Even on the merits, penalty under Section 74 / 122 and interest under Section 50 are separately assailable on the "bona fide interpretation" ground; an amnesty / waiver representation to the GST Council (on the analogy of Section 128A relief) is a realistic policy avenue.

- **Mixed / composite supply and classification.** The Court left issues of composite and mixed supply in the SCNs open for the adjudicating authority, as they were neither specifically challenged nor argued.

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[9] Legal Remedies Now Available to the Operators

The judicial options narrow sharply after a Supreme Court verdict, but they are not exhausted:

1. **Review petition (Article 137).** The most immediate option. But the Court has fenced this in advance—citing *Surendra Koli v. State of U.P.* [(2014) 16 SCC 718], it stressed that review lies only for an "error apparent on the face of the record," not re-argument. The retrospectivity holding (deeming fiction vs clarification) is the likeliest review ground.

2. **Curative petition.** Available after a failed review, on the *Rupa Ashok Hurra* standard—even narrower (gross miscarriage of justice / violation of natural justice). A long shot, but the sheer financial magnitude may justify the attempt.

3. **Reference to a larger Bench.** A two-Judge Bench has, in substance, displaced the long-prevailing reading of Constitution-Bench (RMDC-I/II) and three-Judge (Satyanarayana, K.R. Lakshmanan) authority. Petitioners may argue that any such re-reading ought to have been referred to a coordinate or larger Bench, raising a *per incuriam* / judicial-discipline ground. The Court pre-empted this by framing its holding as an application (via

the companion Junglee Games judgment) rather than an overruling—but the argument is preservable.

4. **Adjudication and the statutory appellate ladder.** The real action now moves to the adjudicating authority (reply within 8 weeks; order within 12 weeks), then to the Appellate Authority / GST Appellate Tribunal and back to the High Court / Supreme Court on questions of law—principally Section 74, quantification, limitation and penalty.

5. **Policy / GST Council route.** Given that Parliament has already banned online money gaming (below), a representation to the GST Council for prospective settlement, interest / penalty waiver, or a one-time amnesty for the 2017–2023 period is, candidly, the most pragmatic path to containing exposure.

[10] The Elephant in the Room — This Is a Tax on a Banned Industry

Crucially, this is a backward-looking levy on a business that no longer exists. The online real-money gaming industry faces crippling retrospective demands for a period in which operators reasonably believed (and were judicially told) they owed only 18% on platform fees. The retrospective demand lands on companies whose business model has fundamentally changed—an outcome the Court acknowledged but held to be a matter of fiscal policy beyond judicial second-guessing.

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[11] Action Points for Taxpayers and Advisors

- Audit every SCN for the Section 74 invocation and build the "bona fide interpretational dispute / no intent to evade" defence to knock out the extended period and equal penalty.
- Reconstruct deposit-level (not bet-level) data; for casinos, pivot the computation to Rule 31C's "amount paid for chips" measure and resist GBV extrapolation.
- Quantify and contest double counting of redeployed winnings, especially for the pre-Rule-31B period, leveraging the Explanation to Rules 31B/31C.
- File replies within eight weeks and appeals within twelve weeks of receiving the judgment; do not let the statutory clock run.
- Preserve, in writing, the retrospectivity and per incuriam grounds for review / larger-bench reference, even while pursuing adjudication.

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- For going-concern skill platforms (e-sports, fixed-prize tournaments), re-engineer products so prizes are announced in advance and de-linked from participant pools, to fall on the "entry fee," not the "stake," side of the line.

[VIII] At a Glance

Five Things Every Stakeholder Must Take Away

- **Skill is dead as a tax shield.** If money rides on an uncertain outcome, it is betting and gambling for GST—rummy, poker and fantasy sports included.
- **Tax is on the pot, not the cut.** 28% on the full face value / deposit; no deduction for prize pools, winnings or payouts. ₹100 deposit → ₹28 GST.
- **The operator is the taxpayer.** Not an intermediary; the gaming company supplies the actionable claim and discharges the levy.
- **It reaches back.** The 2023 amendments are clarificatory, so demands run from 01.07.2017; ₹21,000 crore on Gameskraft alone, ₹1.5 lakh crore sector-wide.
- **The fight moves to adjudication.** Section 74 (intent to evade), quantification, casino Rule 31C valuation, interest and penalty remain live before the authorities and the Tribunal.

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Remedies Roadmap — What Operators Can Still Do

Immediate (0–8 weeks): File SCN replies; attack the Section 74 invocation; demand deposit-level (not bet-level) computation; seek interim protection.

Adjudication & Appeal: Contest quantification, redeployment double-counting, casino GBV vs Rule 31C, limitation, interest and penalty before the adjudicating / appellate authority and the GST Appellate Tribunal.

Apex remedies: Review petition (error apparent—focus on the retrospectivity / deeming-fiction holding); thereafter a curative petition; and a plea for reference to a larger Bench on the per incuriam ground.

Policy route: Representation to the GST Council for a one-time amnesty / interest-penalty waiver for the 2017–2023 period—realistically the most effective containment given the industry has been banned prospectively.

Key Provisions and Authorities Referenced

Provision	Effect in the Judgment
S. 2(1) CGST Act	Adopts “actionable claim” from S. 3 Transfer of Property Act, 1882.
S. 2(31) CGST Act	“Consideration” — wide definition; the stake is consideration; deposit proviso falls away on appropriation.
S. 2(52) CGST Act	“Goods” includes actionable claims (excludes money / securities).
S. 2(105) CGST Act	“Supplier”; 2023 proviso deems the platform a supplier of specified actionable claims.
S. 7 CGST Act	“Supply” — inclusive and wider than transfer; the taxable event.
S. 9(1) CGST Act	Charging provision; levy on the taxable person at notified rates (28%).
S. 15 CGST Act	Valuation — transaction value (15(1)); special valuation (15(4)/15(5)).
S. 164 CGST Act	General rule-making power, including retrospective rules (164(3)).
Schedule III, Entry 6	Excludes actionable claims from supply except lottery, betting, gambling (post-2023: “specified actionable claims”).
Rule 31A(3)	Value = 100% of face value of bet / amount paid into totalizator (betting, gambling, horse racing).

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Rule 31B	Value of online (money) gaming = total amount deposited with the supplier.
Rule 31C	Value of casino supply = amount paid for chips / tokens / participation.
Articles 246A, 366(12), 366(12A)	Source of GST competence; inclusive definition of “goods”; constitutional meaning of GST.

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