



# Online Gaming - Union Budget 2023

February 2023

# Gaming Industry and Regulatory Environment

While the gaming industry evolved from the traditional gaming methods to having a range of online gaming including real money coming and gambling platforms. There was no regulatory clarity from a TDS / Taxation perspective which continued references to the traditional games leading to a lot of confusion and uneven playfields for operators using different methodology.

With clarity on the TDS piece this ambiguity shall be put to rest with a common playing ground for all the operators in Gaming Industry.

We keenly await the next steps in regulating this Industry which will give an impetus to the booming industry of online gaming and having similar clarity in GST which is another Tax where a similar ambiguity exists.

## Section 194BA & 115BBJ - Mystery Solved?

### TDS on Player Winnings – Current

Section 194B provides that the person responsible for paying to any person any income by way of winnings from any lottery or crossword puzzle or card game and other game of any sort in an amount exceeding ten thousand rupees shall, at the time of payment thereof, deduct income-tax thereon at the rates in force.

Section 19BB similar provisions for deduction of tax at source for horse racing in any racecourse or for arranging for wagering or betting in any race-course.

Section 115BB rate of tax on winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or gambling or betting of any form or nature.

### TDS on Player Winnings – Ambiguity

- Limit of 10,000 applies:
- Per transaction and only on withdrawal
- Per day
- Per Financial Year
- Per Game
- After set-off of losses
- Definition of Winnings?
- Definition of Game and Credits

## **TDS on Player Winnings – Proposed**

Section 194BA – w.e.f 1 st July, 2023

- Deduction of tax at source on net winnings in the user account at the end of the financial year
- In case of withdrawals the TDS to be computed on net winnings forming part of withdrawals and additionally at the end of the year based on the balance in the user account
- Net winnings shall be computed in the prescribed manner.
- In case of winning in kind, TDS on net winning to be deducted before releasing the payment.

## **TDS on Player Winnings – 194BA**

### **Comments**

- It will be interesting to see the clarification/notification/rules by Income Tax in rules for the following questions to be answered –
  - Allow Buy- ins only to be deducted?
  - If there is a withdrawal in between will the player be allowed to consider the net winnings till that date or will it be defined at a game level

- Will there be any limit or will it apply to players winning only Re.1 ?
- Whether net winnings will be a cumulative of winnings between 2 withdrawals and/or year end or will it be a game level computation.
- While the conceptual clarity has emerged ; only with further clarifications modalities will be clear for implementation.
- The computation and compliances will certainly increase from the current methods adopted.

## **TDS on Player Winnings – Proposed**

Section 115BBJ – w.e.f AY 2024-25

- Erstwhile section 115BB to remove reference to income from “online gaming”
- Insert new section on the matter
- Rate of TDS @ 30%
- Net winnings shall be computed in the prescribed manner
- In case of winning in kind, TDS on net winning to be deducted before releasing the payment.
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