

GOODS AND SERVICES TAX IN CASINOS: UNDERSTANDING THE FIASCO OF TAXABILITY

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ABSTRACT

Casinos are a million dollar industry in India. It accounts for a huge corpus of tax for the Government in the form of direct as well as indirect tax. Under the indirect tax, sum of money charged by the casino for providing various services is chargeable to tax. It is with the difference of interpretation between the department and the casino industry that the taxability of services provided by the casinos comes to question. The casino charges a commission from the winnings of a player for providing the services to a person who places the bet. But the Department of Revenue vide Circular No. 27/01/2018-GST, stated that the Goods and Services Tax amounting to 28% shall be levied on betting/ gambling services being provided by the casinos on the transaction value of betting, i.e., the total bet value. However, “consideration” as defined under Sec. 2(31) of the Central Goods and Service Tax Act, 2017 is any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services, or both, whether by the recipient or by any other person. This paper discusses the scope of taxability of services under Goods and Services Tax as well as pre- Goods and Services Tax regime with respect to the definition of consideration. It also highlights the comparative analysis of the taxability of such services with reference to international jurisprudence and rulings of courts of different countries on the same. The paper also attempts to discern the judicial standpoint on issues relating to the interpretation of inclusive or exclusive nature of the definition of consideration in its various rulings. This paper concludes by providing an exhaustive research explaining a true and fair standpoint of law on the said issue and suggesting recommendations.

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I. INTRODUCTION

India being a welfare state has always looked down upon gambling and betting industry because of the social stigma attached to it. It was always looked down by the society as it was considered morally wrong. Gambling and betting industry in India is heavily restricted except for selected categories in lottery and horse racing. While the critics argue that gambling and betting leads to an increasing number of crimes in the society, the proponents on the other hand have held that regulated gambling can contribute to huge source of revenue for the public exchequer. Even though gambling is restricted there is a huge illegal gambling industry operating in India. Studies have suggested that the betting market in sports alone amounted to USD 60-130 billion and the tax estimation if collected would amount to USD 20-30 billion.¹

Gambling is a state subject and only states in India are entitled to make laws regulating it. Entry 34 in List II in Seventh Schedule of the Constitution of India gives powers to States to make their own betting laws and gambling laws and policy within their territories.² The Public Gambling Act, 1867 is a central legislation that prohibits all games of chance except lotteries and games of skill.³ Casinos have been set up to facilitate the gambling industry and currently only 3 states *i.e.*, Goa, Daman and Sikkim have legalized casinos in their respective states.⁴ In

¹ Jay Sayta, *Sports Gaming Law a Must*, THE STATESMAN (Feb 22, 2020), <https://www.thestatesman.com/supplements/law/sports-gaming-law-must-1502723455.html>.

² Audrija Parasar, *Gambling and Betting in India*, 1 INTERNATIONAL JOURNAL OF RESEARCH IN ENGINEERING, SCIENCE AND MANAGEMENT 10 (2018).

³ The Public Gambling Act, 1867, No.3, Acts of Imperial Legislature, 1867, § 12.

⁴ *Id.*

2019, the amount of revenue collected through tax in Goa alone amounted to Rs.411 crores.⁵

Goods and Services Tax (hereinafter referred as ‘GST’) has brought the taxability of gambling and betting under its purview.⁶ However, the clarification issued by the Department of Revenue on January 27, 2018 has brought the legal tenability of the circular itself into question. According to the said circular, the value of supply shall be taken as 100% of the face value of the bet or the amount paid into the totalisator and not just the value of commission charged by the casinos. In this paper, the authors argue the legal standing of the said circular and its legal stand-ability with Section 15, Central Goods and Services Tax Act, 2017 (hereinafter referred as ‘the Act’) read with Rule 31A(3), Central Goods and Services Tax Rules, 2017 (hereinafter referred as ‘the Rules’).

II. GOODS AND SERVICES TAX: AN OVERVIEW

The Constitution of India being the supreme law of the country, grants the authority for levying tax. Article 265 of the Constitution states that no tax shall be levied except by the authority of law. The expression “authority of law” implies that the procedure for imposing the liability to pay a tax has to be strictly complied with.⁷ The Constitution, in making the distribution of legislative powers between the Union and the States,

⁵ PTI, *Goa government earned Rs 411 cr. revenue from casinos in Financial Year 19: CM*, BUSINESS STANDARD (Feb 22, 2020), https://www.business-standard.com/article/pti-stories/goa-govt-earned-rs-411-cr-revenue-from-casinos-in-fy-19-cm-119080701145_1.html.

⁶ Central Goods and Services Tax Act, 2017, No. 12, Acts of Parliament, 2017, sch. III [hereinafter **CGST Act, 2017**].

⁷ INDIA CONST. art. 265.

has enumerated various items of legislations in the three lists under which the Union and the State Governments have the authority to make laws.⁸ Such lists include taxes like Customs Duty and Central Excise that were levied and collected by the Central Government under Entry 83 and Entry 84 of the Union List, whereas taxes like Value Added Tax (VAT) are levied and collected by the State Government under Entry 54 of the State List. The State Government under Entry 34 has the authority to levy and collect taxes for betting and gambling.⁹

It is in the presence of a mixture of multiple central, state and local levies that the need for a uniform taxation regime became inevitable. The idea was to bring the ground plan of a harmonized system of indirect tax into reality by subsuming the count of taxes under one bracket of GST. It was rolled out in India on April 1, 2017. GST subsumed in itself various union and state taxes including tax on betting and gambling by amending Article 246 of the Constitution of India.

GST law intends to depart from the historical concept of “taxable event” understood under State VAT laws and excise laws by levying tax on the “supply of goods and/or services.”

The term “actionable claim” defined under Section 2(1) of the Act states that it shall have the same meaning as assigned to it in Section 3 of the Transfer of Property Act, 1882.¹⁰ As per Section 3 of the Transfer of Property Act, 1882, “actionable claim means a claim to any debt, other than a debt secured by mortgage of immoveable property or by hypothecation or pledge of moveable property, or to any beneficial interest

⁸ *Id.*, art. 246.

⁹ *Id.*

¹⁰ Transfer of Property Act, 1882, No. 4, Acts of Imperial Legislature, 1882.

in moveable property not in possession, either actual or constructive, of the claimant, which the civil courts recognize as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent.”¹¹

There exists a statutory difference in the definition of ‘goods’ as defined under the Act and Sales of Goods Act, 1930. The definition of goods under Section 2(52) of the Act refers to every kind of moveable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.¹² Thus, actionable claims fall under the definition of ‘goods’ under the Act, whereas Sales of Goods Act, 1930 excludes actionable claims from the definition of goods.¹³ Some examples of actionable claims include – lottery, betting, gambling, debenture, bank guarantee, etc.

Section 7 of the Act defines the scope of “supply” and specifies certain activities or transactions that shall not be treated either as supply of goods or services included under Schedule III of the Act.¹⁴ Such activities/ transactions as stated under paragraph 6 of Schedule III include actionable claims, other than lottery, betting, and gambling. Therefore, lottery, betting and gambling being actionable claims alone shall be included in the definition of ‘goods’. All other actionable claims shall not be treated as supply under GST.

¹¹ *Id.*, § 3.

¹² CGST Act, 2017, § 2(52).

¹³ Sale of Goods Act, 1930, No. 3, Acts of Imperial Legislature, 1930, § 2(7).

¹⁴ CGST Act, 2017, § 7(2)(a).

III. VALUATION OF SUPPLY FOR BETTING AND GAMBLING

The scope of “supply” under Section 7 of the Act includes various forms such as sale, transfer, barter, exchange, etc. of goods and services made or agreed to be made in furtherance of business. Such supply is made for a consideration. However, importation of services whether or not in furtherance of business but for a consideration is also considered supply under this section.¹⁵ It also includes activities specified in Schedule I made/ agreed without consideration thereby.¹⁶

While Section 7 specifies the scope of “supply,” Section 15 of the Act crystalizes common law provisions for determining the value of supply of goods and services. It states that “the value of supply to be transaction value for the price actually paid or payable for the said supply of goods and services or both. It provides that supplier and recipient to not be related and price being the sole consideration for the supply.”¹⁷

When value of supply cannot be determined as per Section 15 of the Act, the same is ascertained using the rules formulated by the GST Council. For determining such valuation of supply for lottery, betting, gambling and horse racing, an amendment was brought in vide Rule 31-A of the Notification¹⁸. It states that: “The value of supply of actionable claim in the form of chance to win in betting, gambling or horse racing in

¹⁵ *Id.*, § 7(1)(b).

¹⁶ *Id.*, § 7.

¹⁷ *Id.*, § 15.

¹⁸ Notification No. 3/2018-Central Tax (Jan. 28, 2018).

a race club shall be 100% of the face value of the bet or the amount paid into the totalisator.”¹⁹

IV. CASINOS: FROM OPERATION TO TAXATION

Entry 34 of the State List in the Seventh Schedule of the Indian Constitution gives powers to States to make their own betting and gambling laws and territorial policies. Presently, various forms of gambling and betting, including setting up of casinos, are legal in Goa, Daman and Sikkim.²⁰ The Goa, Daman and Diu Public Gambling Act, 1976 allows setting up of a casino at 5-star hotels and off-shore vessels with prior permission of the Government.²¹

According to the standard procedure of operation, a person has to pay an entry fee upon entering a casino. Such entry fee is for the entry into a casino in which a person may avail services like food, beverages, gambling, etc. He may also buy casino chips in exchange of legal currency to play games in a casino. The ‘entry to casinos’ and ‘gambling’ being two separate services are subjected to taxability under GST, which is levied at 28% (14% Central GST and 14% State GST) for availing each of such service.²²

However, for the purpose of such taxability, the method of determining taxable amount was not specified under the present rule of taking value of supply to be 100% of the bet placed, which brought the

¹⁹ *Id.*

²⁰ Parasar, *supra* note 2.

²¹ Goa, Daman and Diu Public Gambling Act, 1976, No.14, Acts of Legislative Assembly of Goa, Daman and Diu, 1976, § 13a.

²² Notification No. 11/2017-Central Tax (Rate) (June 28, 2017); Circular No. 27/01/2018 (Jan. 4, 2018).

casino industry to a standstill. Further, the Bombay High Court in *Gurdeep Sachar v. Union of India (Dream 11 case)* held that the taxability for a game of chance is totally different from a game of skill.²³ It also held that the winnings in a casino are considered to be a game of skill and not a game of chance. Hence, the rule of charging tax on the game of chance finds applicability in the instant dispute of taxability in casinos pertaining to the winnings as a game of skill. After a series of representation received from trade and industry regarding the levying of GST on the gambling and betting services in casinos, a circular was issued to clarify the procedure. It stated that: “GST @ 28% would apply on entry to casinos as well as on betting/ gambling services being provided by casinos on the transaction value of betting, i.e. the total bet value, in addition to GST levy on any other services.”²⁴ According to this circular, each time a person places a bet, GST shall be levied on the bet value which is an impracticable and cumbersome process for the casino industry to perform. The clarification has been issued without taking into account the methodology of how casinos operate.

The transaction value of betting i.e., the total bet value, holds no tenability in light of the interpretation of the provisions of the Act. Section 15, CGST Act, 2017 specifies the value of taxable supply to be the transaction value which is price actually paid or payable for such supply of goods or services.²⁵ With reference to gambling and betting in casinos, the transaction value would be the amount or commission charged by the casino operator for providing the facilities to allow the players to play in

²³ *Gurdeep Sachar v. Union of India*, (2019) VIL 283 BOM.

²⁴ Circular No. 27/01/2018 (Jan. 4, 2018).

²⁵ CGST Act, 2017, § 15.

the casino. The same stands challenged against Rule 31-A which states that: “The value of supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club shall be 100% of the face value of the bet or the amount paid into the totalisator.”²⁶ Furthermore, as per the circular issued, the entire bet value is to be subjected to taxability and not just the commission charged.²⁷

V. ANALYSIS

The issue of taxability after valuation of services in casinos because of different interpretations of Section 15 of Act and Rule 31(A)(3) has led to a wider array of issues under the GST. In relation to this, Section 15 of the Act provides for the value of supply to be the value of the transaction or the price paid or payable for the said supply. Price being the ‘consideration’ to the supply automatically acquires greater importance to the supply which becomes the determinant factor in valuation of services.

‘Consideration’ as defined under GST includes any payment made or to be made in response to/inducement of the supply of goods or services.²⁸ Such definition by using the word “include” broadens the meaning of the expression to understand not only such things which the expression naturally signify but also those which the clause declares to be included.²⁹ Furthermore, the Indian Contract Act, 1872 defines the term

²⁶ Notification No. 3/2018-Central Tax (Jan. 28, 2018).

²⁷ Circular No. 27/01/2018 (Jan. 4, 2018).

²⁸ CGST Act, 2017, § 2(31).

²⁹ *West Bengal State Warehousing Corporation v. Indrapuri Studio Pvt. Ltd.*, Civ. App. no.3865/2006 (SC).

“consideration” as the act of doing or abstaining from performing a promise at the desire of the promisor.³⁰ In casinos, such consideration being the amount charged by the casino operator becomes the transaction value on which GST is to be levied. The term “inducement” as common to both the definitions explained above thereby necessitates a nexus between supply and consideration which holds paramount importance in case of valuation of services under GST to be collected by the casinos.

A. Rule *ultra vires* the Act

The rules being a subordinate legislation cannot go beyond the scope of the provisions of the Act. The rulemaking power under any Act does not allow the subordinate legislation to extend the scope and powers of the Act itself.³¹ This fiasco brings two issues that need to be taken into consideration to answer the issue of taxability levied on casinos. The first issue being the determination of Value of Supply, and the second, the impracticability of levying GST on each bet that is placed in the Casino.

B. Taxable Value of Supply

The taxable value of supply is the consideration charged for providing goods and services. In the instant case, the casino operator either earns a commission from the total earning of the players or the amount of the total stakes/bets placed by players less the winnings and other amounts paid out to players in connection with that bet.

³⁰ Indian Contract Act, 1872, No. 9, Acts of Imperial Legislature, 1872, § 2(d).

³¹ Add. District Magistrate (Rev.) Delhi Admin. v. Siri Ram, (2000) 5 SCC 451.

The above issue was raised in the 36th meeting of the Good and Services Tax Council and it was stated before the council that net amount or Gross Gaming Revenue (GGR) would stand the principle of fairness if it was taxed, and not the face value of the bet. It was also recommended that the matter be sent to Fitment Committee or the Law Committee to which the Council agreed.³² Thereafter, the Fitment Committee submitted a report suggesting two alternatives in place of Rule 31A:

OPTION-1

(i) In cases where the casino operator charges a commission or participation fee, by whatever name called, from the players, the said commission or participation fee shall be the value of the supply; or

(ii) In all other cases, the value of the supply shall be the revenue of the casino operator and shall be calculated in the following manner, namely, - Value of supply = (Value of the total stakes/bets placed by players) - (the winnings and other amounts paid out to such players in connection with the said stakes/bets)

Explanation - For the purposes of this sub rule, the value of supply shall be determined at the end of the day by reference to the aggregate taxable value of transactions during that day.³³

According to this rule, if the casino operator charges a commission or a participation fee, then that shall be taken as the value of supply and GST shall be charged on that value. However, if there is no commission charged, then for determining the value of supply, the total bets placed by

³² Fitment Committee, Goods and Services Tax Council, *Agenda for 36th GST Council Meeting*, Agenda Item 7 (25 Jul 2019); Minutes, 36th Goods and Services Tax Council Meeting (July 27, 2019).

³³ Fitment Committee Recommendations, 37th GST Council Meeting, Annexure 5, S. No. 3 (Sept. 20, 2019).

the buyer shall be subtracted from the amount he earned (winnings) respectively while placing those bets. This difference is also called as Gross Gaming Revenue (hereinafter “GGR”). Accordingly, the value which the casino operator earns from a bet is considered for the valuation of the supply and GST is charged on it. Under this only the net amount and not the gross amount is charged under the GST.

OPTION-2

Value of supply in case of Casino:-

(a) For entry into casino, the value of supply shall be 100 percent of the transaction value charged for the entry to the casino and

(b) For gambling and betting services provided by a casino operator, the value of supply shall be deemed to be 30% of the transaction value of betting.

Explanation: – 1. Winnings in a casino in the form of casino chips or any other name called won by a person inside a casino used further for betting and gambling activities provided by a casino operator shall not be considered as an entry fee or value of supply.

2. Any part of casino chips or entry fee separately deposited temporarily in any account like escrow account for distribution of prize money shall continue to be part of taxable value.³⁴

Under this rule, if there is an entry fee that is charged from a person, then whole of the entry fee shall be included in the value of supply. However, for gambling and betting services, the amount has been decreased to be 30% of the total amount of the transactional value. This brings relief to casino operators as the value of taxable supply is decreased and hence, less amount of tax is charged from the person. To understand the above mentioned suggestions, following illustrations can be referred:

³⁴ *Id.*

ILLUSTRATION:

Arun is a businessman and he visits a casino in Goa. For his entry into the casino, Arun is charged Rs. 3000. He plays a round of blackjack wherein he places a bet at multiple times. The amounts of bet placed and the amount earned in each bet is as mentioned below.

Rounds of bets placed	Amount wagered	Prize (Winnings)
1	15000	5000
2	20000	7000
3	12000	Nil

The calculation of the valuation of supply in each of the following steps is mentioned as follows-

Scheme	Rule 31A	Option 1	Option 2
Valuation of supply	Value of supply will be charged separately 1. Amount paid for entering the Casino 2. Total amount of bet placed in the casino.	Under this scheme of valuation, 1. The participation fee i.e., the entry fee. 2. Total amount wagered- Total amount earned.	Value of supply will be charged separately 1. Amount paid for entering the Casino 2. The value of supply shall deemed to be

			30% of the transaction value of betting.
Effective Value	1. 3000 (amount charged for entering the club) 2. 15000(Round 1) 3. 20000(Round 2) 4. 12000(Round 3)	1. 3000 (amount charged for entering the club). 2. 15000-5000(1 st round) 3. 20000-7000(2 nd round) 4. 12000-nil (3 rd round)	1. 3000 (amount charged for entering the club) 2. 47000 (total amount of bets placed)
Tax rate	28% of 3000 + 28% of 47000	28% of 3000+ 28% of 35000	28% of 3000 + 28% (30% of 47000)
Total tax collected	14000	10640	4788

*Under Rule 31A tax must be collected each time the person places a bet.

1. Under the first method Rs. 47000 is taken as the total amount of bet, whereas the total amount of consideration that should be charged is Rs. 35000 because the taxable value of supply is the consideration charged for providing goods and services and in the instant case it is Rs. 35000 as

amount worth Rs. 12000 is returned back to the person as his winnings in the bet.

2. The third method might be successful in a case where a person has earned more than he has placed a bet for. In such a case, this method shall prove to be successful as this provides a constant flow of revenue to the Government treasury irrespective of the amount wagered and the amount earned. This method can also be taken into consideration as only 30% of the total transaction is taken into consideration.

According to the Rule 31A (3) of the Rules, the casino operators shall have to levy GST each time a bet is placed by the player. Rule 31A states that the value of supply shall be 100% of the face value of the bet or the amount paid into the totalisator. This will be a cumbersome process as each man can play multiple rounds and the casino operator has to monitor each and every transaction of game and levy tax at each stage. Instead the law shall be amended and GST shall be calculated on the total amount of the transaction that a player undertakes in a day. The methodology to calculate the transaction value according to the suggestions of Fitment committee is as follows:

Scheme	Option 1	Option 2
Valuation	Case 1: When total commission is charged in winnings then the total winning of the person is calculated in a day and on said value GST is levied.	For gambling and betting services provided by a casino operator, the value of supply shall be deemed to be 30% of the transaction value of betting. Thus, this is

	Case 2: Value of supply = (Value of the total stakes/bets placed by players) - (the winnings and other amounts paid out to such players in connection with the said stakes/bets) Hence in the above valuation method all the bets placed by a person in a day are added and the amount earned on each bet is subtracted. Hence the resultant figure is chargeable to tax.	relatively easier to calculate as the total amount of bet placed in a day is the transaction value in this method
Additional	Participation fee is added in the instant case	Entry fee is added in the instant case

VI. INTERNATIONAL OUTLOOK: TAXABLE BASE

Due to the problematic technical issues, the European Union (EU) has traditionally opted to exempt the gambling services from taxation.³⁵ However, some member states are still at liberty to levy tax on certain forms of gambling which brings the determination of taxable value into

³⁵ FABIOLA ANNA CONDIA & LAURA ALONSO, VAT AND FINANCIAL SERVICES: COMPARATIVE LAW AND ECONOMIC PERSPECTIVES (R.F. Brederode & R. Krever eds., 2017).

picture.³⁶ Such guidelines relating to the determination of taxable base are contained in Value Added Tax (VAT) Directive.³⁷ It states that, “the taxable amount shall include everything which constitutes consideration obtained or to be obtained by the supplier.”³⁸ Further, the issue relating to assessment of inclusion or deduction of pay-out (winnings/prize) given to the player has also been interpreted by the European Court of Justice (ECJ).³⁹

It ruled that, for determination of the deductible proportion of input VAT paid, the amount pre-determined by ‘legislation’ that must be paid back to players as winnings must not be included in calculating the deductible input VAT, since such amount cannot be regarded as forming part of the turnover of the organizer of the game.⁴⁰

Gambling services in Australia⁴¹ and New Zealand⁴² follow the same methodology for determination of taxable base under consideration within their respective laws. In both the countries margin VAT system is followed under which VAT is applied only to the margin and not the individual gambling sale. Under this, “amount received” is the amount actually received by the gambling service provider relating to the provision of services relating to gambling and ‘prize’ is the amount of

³⁶ *Id.*

³⁷ Council Directive on the common system of value added tax, 2006/112/EC (Nov. 28, 2006).

³⁸ *Id.*

³⁹ H. J. Glawe Spiel- und Unterhaltungsgeräte Aufstellungsgesellschaft mbH & Co. KG v. Finanzamt Hamburg-Barmbek-Uhlenhorst, C-38/93, 1994 ECR I-1679.

⁴⁰ International Bingo Technology S.A. v. Tribunal Económico-Administrativo Regional de Cataluña, C-377/11, 2012 ECLI EU-503.

⁴¹ A New Tax System (Goods and Services Tax) Act, 1999 (Australia).

⁴² Goods and Services Tax Act, 1985 (New Zealand).

winnings for the same tax period. Where the amount received by the gambling service provider is more than what is paid as winnings to the player, then the taxable person is required to calculate the output VAT wherein the margin is multiplied by the tax fraction (applicable VAT rate divided by 100 plus the VAT rate).⁴³ Therefore, by stating the chargeability of VAT as a consumption tax and not as a turnover tax, the system intends to tax the consideration for the services.

The approach followed by modern VAT countries has similar effects as the method recommended to be followed in the Indian scenario for the valuation of services. The method of determining the taxable base value as per Rule 31A of the rules has been disregarded in the international picture because of the nature of tax being consumption base and not turnover based. There exists a similarity between the VAT margin method followed by countries like Australia and New Zealand and what has been proposed by the Fitment Committee (Option-1) as mentioned above. Therefore, stating the chargeability of VAT as a consumption tax and not as a turnover tax is the fundamental idea in such countries in regards to taxation of gambling and betting services.

VII. CONCLUSION AND RECOMMENDATIONS

With the introduction of Good and Services Tax and shift from the previous VAT regime, various questions have been raised to determine the value of supply for services in specific sectors. The taxability of casino industry through determination of value of supply is one such issue which has invited the attention of the GST department. The operation of CGST

⁴³ Add. District Magistrate (Rev.) Delhi Admin. v. Siri Ram, (2000) 5 SCC 451.

Rules mandated the value of supply to be 100% of the bet value placed. However, the same stood challenged against Section 15 of the GST Act which stated the value of supply to be the price being paid for the services. This difference of interpretation became the primary bone of contention between the casino operators and the government. The said issue was raised before the 36th GST Council which further referred the issue to the Fitment Committee. The Committee provided two alternatives. It suggested that either the commission charged by casino operator can be taken as the value of supply or in cases where commission is not charged, 100% of the entry fee and 30% of the transaction value can be taken as the value of supply. It is therefore submitted that either of the two methods suggested by the Fitment committee can be taken into consideration by the GST council. These methods will be in tandem with Section 15 of the GST Act and international principles/regulations, and the methods will not be ultra vires the Act. A change is expected to be brought as expeditiously as possible. The present principles laid down are not feasible and this has led the casino operators to an utter confusion as to how are they supposed to determine their tax liability.