

GOVERNMENT OF INDIA
MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY
RAJYA SABHA
UNSTARRED QUESTION NO. 1856
TO BE ANSWERED ON 04.08.2023

REVENUE FROM ONLINE GAMING INDUSTRY

1856. SMT. PHULO DEVI NETAM:

Will the Minister of Electronics and Information Technology be pleased to state:

- (a) whether Government has a plan to generate revenue from online gaming industry in the country, if so, details of the different revenue streams envisaged;
- (b) whether Government has studied the possibility of decline in revenue from high taxes on online gaming, if so, the details thereof, if not, reasons therefor;
- (c) the steps taken by Government to overcome jurisdictional limitations between State and Central laws regulating online gaming in the country; and
- (d) the details of total revenue generated through the Online Gaming industry through investments, direct industry revenues, in-app purchases and other revenues since 2019?

ANSWER

MINISTER OF STATE FOR ELECTRONICS AND INFORMATION TECHNOLOGY
(SHRI RAJEEV CHANDRASEKHAR)

(a) to (d): Online gaming is a part of the overall digital innovation and economy ecosystem in India with a goal at becoming trillion dollar digital economy by 2026.

Several online gaming start-ups are being set up in innovating, growing and investing to create jobs in this sector.

As per the Government of India (Allocation of Business) (Three Hundred and Seventieth Amendment) Rules, 2022 dated 23.12.2022, "Matters relating to online gaming" has been allocated to the Ministry of Electronics and Information Technology, Government of India and over a period of few months, after extensive public consultation, the Central Government has put a framework and guardrails to prescribe and regulate permissible online games.

On 6.4.2023, the Central Government has notified amendment to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 ("IT Rules, 2021") to define and regulate permissible online games. Under this framework, only such online games can be permitted to be accessed in Indian cyberspace, which are free from wagering on outcome and do not cause user harm and addiction.

In so far as the revenue from online gaming is concerned, as per the information received from Department of Revenue, Ministry of Finance, *vide* Finance Act 2023, a separate section 115BBJ (regarding Tax on winnings from online games) has been inserted in the Income-tax Act, 1961 (the Act) to provide that where the total income of an assessee includes any income by way of winnings from any online game, the income-tax payable shall be the aggregate of:-

- i) the amount of income-tax calculated on net winnings from such online games during the previous year, computed in the prescribed manner, at the rate of thirty per cent; and
- ii) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the net winnings referred to above.

Section 115BBJ of the Act applies from 01.04.2023 and is accordingly applicable for the assessment year 2024-25 and subsequent assessment years.

Vide Finance Act 2023, a separate section 194BA (regarding Winnings from online games) was also inserted in the Act with effect from 01.04.2023 to provide for deduction of tax at source on "net winnings" from online games at the rate of thirty per cent.

The Central Government has also prescribed Rule 133 in the Income-tax Rules, 1962 vide Notification G.S.R. 379(E) No. 28/2023 dated 22.05.2023, which lays down the formula for calculating –“net winnings”. Further, the Central Board of Direct Taxes has issued Circular No. 5 of 2023 dated 22.05.2023 which provides clarity on various issues relating to deduction of tax at source on "net winnings". The aforementioned Rule and Circular ensure that there is certainty in levy of income tax for the online gaming sector which will promote ease of doing business and help the industry in its growth.

The winnings from online games are chargeable to income tax at the rate of thirty per cent which is the same rate of income-tax as 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 whatsoever. Further, for online games, the tax is on "net winnings" in the user account which is calculated after aggregating all winnings (including losses) during the year.

The Department of Revenue, Ministry of Finance, has further informed that GST rates and exemptions are prescribed on the recommendations of GST Council which is a constitutional body comprising members from Union Government and State/UT Governments. The GST Council had set up a Group of Ministers on Casinos, Race Courses and Online Gaming, whose reports were placed before the GST Council. After details deliberations, the GST Council in the 50th Meeting held on 11th July, 2023 has clarified that actionable claims supplied in online gaming are levied to a GST rate of 28%.

In regards to the details of total revenue generated through the online gaming industry through investments, direct industry revenues, in-app purchases and other revenues since 2019, it is informed that Section 115BBJ relating to tax on winnings from online games has been inserted in the Act with effect from 01.04.2023 and accordingly applies for the assessment year 2024-25 and subsequent assessment years. For the assessment years prior to the assessment year 2024-25, the winnings from online games were chargeable to tax under section 115BB of the Act along with lotteries, crossword puzzles etc. Hence separate data for income tax from the online gaming industry is not available.

Further, section 194BA relating to deduction of tax at source on "net winnings" from online games has been inserted in the Act with effect from 01.04.2023. For the time period prior to 01.04.2023, the deduction of tax at source on winnings from online games was made under section 194B of the Act which also applies to lotteries, crossword puzzles etc. Hence separate data for deduction of tax at source for online gaming is not available.
