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# GST Council: 28% tax on online gaming, casinos and horse-racing

Finance Minister Nirmala Sitharaman said the intent was not to end any industry linked to online gaming, casinos and horse-racing, but there was discussion on the moral question of whether these should be taxed at the same rate as essential items.

Written by **Aanchal Magazine**

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The issue before the GoM (group of ministers) was whether to impose a 28 per cent GST on the face value of bets, or gross gaming revenue, or just on platform fees. (Express Photo by Amit Mehra)

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THE GOODS and Services Tax (GST) Council, in its 50th meeting on Tuesday, decided to levy a uniform 28 per cent tax on full face value for online gaming, casinos and horse-racing, while reducing the rate for uncooked/ unfried snack pellets, cancer medicine and imitation zari thread.

The meeting also clarified the rate for food and beverages sold inside multiplexes and the definition of all utility vehicles to bring parity for cess levy.

Finance Minister [Nirmala Sitharaman](#) said the intent was not to end any industry linked to online gaming, casinos and horse-racing, but there was discussion on the moral question of whether these should be taxed at the same rate as essential items.

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The tax would be levied on full value of bets or full value of consideration paid. Earlier, the ministerial panel on online gaming, casinos, horse-racing had discussed

the other option of levying tax on gross gaming revenue or platform fee, that is, the charge paid to avail the gaming services, but it did not find favour.

“Our agenda is not to end any industry... all types of businesses have to function... there was discussion on the moral question that on one front, you do not want to end an industry. But that does not mean that you give more incentives to them than essential goods... all states participated in this decision which has been pending for the last 2-3 years. We could take the decision today because every state clearly participated in it,” Sitharaman said.

Pointing out that the system had to be simplified as it is “impossible to pierce that veil which brings opacity on how it is actually operated”, Sitharaman said the GST Council’s decision focused on the taxation part of online gaming and it will align with the regulation of the Ministry of Electronics and Information Technology (MeitY). She said the tax on online gaming companies would be imposed without making any differentiation based on whether the games required skill or were based on chance, and that there will be an amendment in the GST law to tweak the definition of actionable claim.

“...this is purely on taxation. We will still align with what MeitY wants to bring in as their regulation...there will be an amendment to Schedule III of the GST Act and we will be bringing in online gaming into the actionable claim list where item number 6 clearly says betting, gambling and lottery are already in it. We will be including online gaming and horse racing also into it...therefore they will be taxable on full face value at 28 per cent,” she said.

For the sub-judice cases related to online gaming, Revenue Secretary Sanjay Malhotra said the government will continue to fight those cases in courts. “28 per cent tax was always the case in online gaming. Today’s decision is only to clarify it and put an end to that debate,” he said.

Online gaming companies, however, said the decision will hit the industry as it will affect gaming volumes and viability of gaming companies.

The GST Council also exempted GST on import of cancer drug Dinutuximab, medicines used to treat rare diseases, and food used in Food for Special Medical

Purposes (FSMP), along with satellite launch services provided by private operators.

Food and beverages consumed in cinema halls will attract a GST of 5 per cent, equivalent to the levy charged in hotels and restaurants, instead of 18 per cent which was being charged by many cinema halls for composite food packages.

The Council also recommended setting up of mechanism for appellate tribunals from August 1. Demands for state-wise benches were presented by various states, and the Council approved setting up of as many as 40 benches in phases.

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The definition of utility vehicles has been tweaked to allow the levy of 22 per cent cess over and above the 28 per cent GST rate. The cess will be imposed on any utility vehicles of 1500 cc and above engine capacity, length of 4 metre and above and unladen ground clearance of 170 mm. This definition will, however, not cover sedans.

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