# Analyzing The Impact Of Gst On Online Gaming Industry

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## Abstract

India's online gaming market has expanded significantly in recent years. India has emerged as one of the world's largest online gaming markets. The global market size for online games is expected to grow from US$37.65 billion in 2019 to US$122.05 billion in 2025. Moreover, the industry is estimated to reach US$2 billion in 2025, in terms of rake free earned/GGR.[1]At its 50th meeting on July 11, the GST[2] council proposed to increase the rate of tax from 18% to 28% and, furthermore, the amount at which GST ought to be required. It is proposed to levy a 28% GST on the Contest Entry Amount (CEA) instead of the current levy of 18% on the Gross Gaming Revenue (GGR), considering that there would be no distinction between games of skill and games of chance. While the government thinks online gaming should be taxed as a sin good, various experts think that the policy will lead to the disruption of the industry and have a cascading effect on the whole economy. The overall goal of this paper is to provide historical and prospective background on GST in the online gaming business and some suggestions regarding the new tax policy that should be taken care of before implementing the same. The paper makes an estimate that the policy will lead to a decrease in industrial as well as GST revenue in the long run. The paper also includes case studies from around the world that show how similar tax reforms have affected industries and tax revenues in the past.

## Introduction

Legitimately, there exists a clear distinction within the Online gaming industry between games of skill and games of chance. Online gaming comes in three different flavours.

1. ***Esports:*** These are video games that were privately played or played on consoles at video game stores in the 1990s but are currently structured online between professional players, either individually or in teams. For Example: Counter-Strike, Fortnite, Valorant, etc.
2. ***Sports fantasy:*** In these games, you select a team of actual sports players from various teams, and you score points based on how well the players perform in actual competition. They gave players the option to earn real money based on these scores. For Example: Dream11, My11Circle, MPL, etc.
3. ***Online casual games:*** These games can also be chance-based, where the outcome is heavily impacted by some random activity, like rolling a die, or skill-based, where the outcome is mostly driven by mental or physical competence. While some games are played only for the excitement, other games give players the possibility of earning actual money. For Example: PUBG, Free-Fire, Among Us, etc. Some of the other games that allow gamers to make real money are Poker, rummy, etc.

[1] Growth of Online Gaming Industry

[2] *Common Acronyms: Goods And Services Tax(GST), Contest Entry Amount(CEA), Gross Gaming Revenue(GGR)*

The Online gaming industry in India has seen critical development and is emerging as a flourishing industry with tremendous monetary potential. The tax will be applied to the contest entry amount rather than prizes, i.e., 28% on the Contest Entry Amount rather than the earlier case of 18% on the Gross Gaming Revenue. The Law Committee has recommended adding a new rule that will take into account the entire amount deposited with online gaming platforms when calculating the tax value.

The Government accepts that social as well as financial reasons will be fulfilled, as individuals will enjoy more useful exercises if incomes fall due to the 28% GST revision. However, despite concerns that the tax would undermine foreign investment and job losses, the Revenue Secretary, Mr. Sanjay Malhotra, said “No government would promote an industry only for employment and investment if it is not in the public interest”. Finance Minister Mrs. Nirmala Sitharaman said the purpose was not to end any industry connected to online gaming; however, there was a conversation on the ethical inquiry of whether these ought to be charged at a similar rate as fundamental things.

The only publicly traded firm in India operating in the casino (live, electronic, and internet) gambling sector is Delta Corp Limited, a flagship company of the Group. Founded in 1990 as a textile and real estate consulting firm, it has since expanded into a variety of industries, including real estate, gaming, hospitality, and online gaming. Shares of casino operator Delta Corp. lost over a fifth of their value while those of online gaming firms crashed on Wednesday, a day after the GST committee forced a 28% duty on such firms. Experts predict that the judgement will hurt online gaming companies because they fear the shutdown of their businesses.

The Goods and Services (GST) Council, in its 51st meeting held virtually on August 2, decided that it will review the 28% tax levied on online casual gaming, horse racing casinos six months after it comes into effect on October 1, 2023.

[3]

[3] Delta Corp. share price (Image source)

## Background

Online gaming has become more accessible as a result of the advent of smartphones and the expanding affordability of high-speed internet. India is now one of the world's major gaming marketplaces. Numerous gaming firms have emerged as a result of the expansion of the online gaming market in India. The government has acknowledged that the AVGC [4]sector has the potential to strengthen domestic capabilities and expand the opportunity landscape through academic partnerships, coproduction, technology, policy, and research. The idea of Prime Minister Shri Narendra Modi was that Indian talent could take the lead in this industry and that the AVCG-XR sector could offer youth numerous employment possibilities to service the global market. The Prime Minister also lauded the work of developers and innovators in the field who are assisting him in realising his goal of a "Digital India."

Let us look at the growth of the online gaming industry in recent years and how it helped in the growth of the Indian economy:

**1. *Industry Size*[5]:** Domestically, the Online gaming industry in India was worth US$0.54 billion in FY16 and has grown to a value of US$2.6 billion in FY22. It is estimated to reach US$8.6 billion by FY27, growing at a CAGR of 27%. Further, Indian gaming companies have raised $2.8 billion from investors across the globe in the last five years. Indian gaming companies are on track to raise $513 million by the end of FY22. Funding has increased by 380% from FY19 and by 23% from FY20.

**2. *Employment:*** The Indian gaming industry has a workforce of 50,000 employees. Out of these, 30 percent, or 15,000 employees, are programmers and developers. The industry is estimated to create more than one lakh direct and indirect jobs by FY22–23 and approximately two lakh jobs by FY24. The industry is witnessing a demand for approximately 50,000 to 80,000 job roles involving developers, programmers, testers, artists, and customer support.[6]

**3. *Startups:*** Today, there are about 1,162 gaming startups in India and 275 game development companies. About 5,468 Indian game publishers are present on the Google Play Store, offering 19,518 games across categories. Some of the top gaming intermediaries in India include Nazara Technologies, Game 24x7, Dream11, and Mobile Premier Leagues.[7]

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[4] *Common Acronyms: Animation, Visual effects, Gaming and Comic(AVCG), Compounding Annual Growth Rate(CAGR)*

[5] Industry Size of Online gaming Industry

[6] Workforce in Online Gaming Industry

[7] Startups in Online Gaming Industry

## Business models of the Online Gaming Industries

1. **Free Games:**
    a. ***Freemium Business Model:*** This model can be downloaded for free at first, but further upgrades come with a cost.
    b. ***Shareware:*** With this business model, customers can play a game's demo or trial version for free, but they must pay to access the full version. The goal is to offer a small amount of gaming to convince consumers to buy the full version.
    c. ***Advertising:*** Users are not charged under this approach, but the game includes advertisements to generate income.

2. **Paid Games:**
    a. ***Up-front payment model:*** Games that are bought once and then downloaded directly onto a mobile device are covered by this approach.
    b. ***Subscription model:*** If customers wish to keep playing, this model charges a recurring cost, typically per month. In mobile gaming, the subscription model is not very widespread. Massively Multiplayer Online (MMO) games and other video games that require ongoing server hosting and administrative oversight for efficient operation use it more frequently.
    c. ***Real Money Gaming:*** Players in these games pay an entry fee for each game or contest, which consists of a platform fee for platform services and a contribution to the prize pool, which is divided among victors in accordance with the game's predetermined regulations.

## Legal Framework[8]

The term "betting and gambling" has been defined by the courts to include games of chance that are governed by the Public Gambling Act of 1867 or state gambling/betting regulations. The courts have repeatedly distinguished games of skill, which are governed by the IT Act of 2000 and the Intermediary Rules of 2021, from gambling and betting and exempted them from the Public Gambling Act's restrictions. Additionally, numerous courts have determined that games of skill are not gambling or betting and are protected as a legal form of business activity under Article 19(1)(g) of the Indian Constitution. Till date, three High Courts, namely Punjab and Haryana (2017), Bombay (2018), and Rajasthan (2020),[9] have approved fantasy sports as a 'game of skill' on grounds such as:

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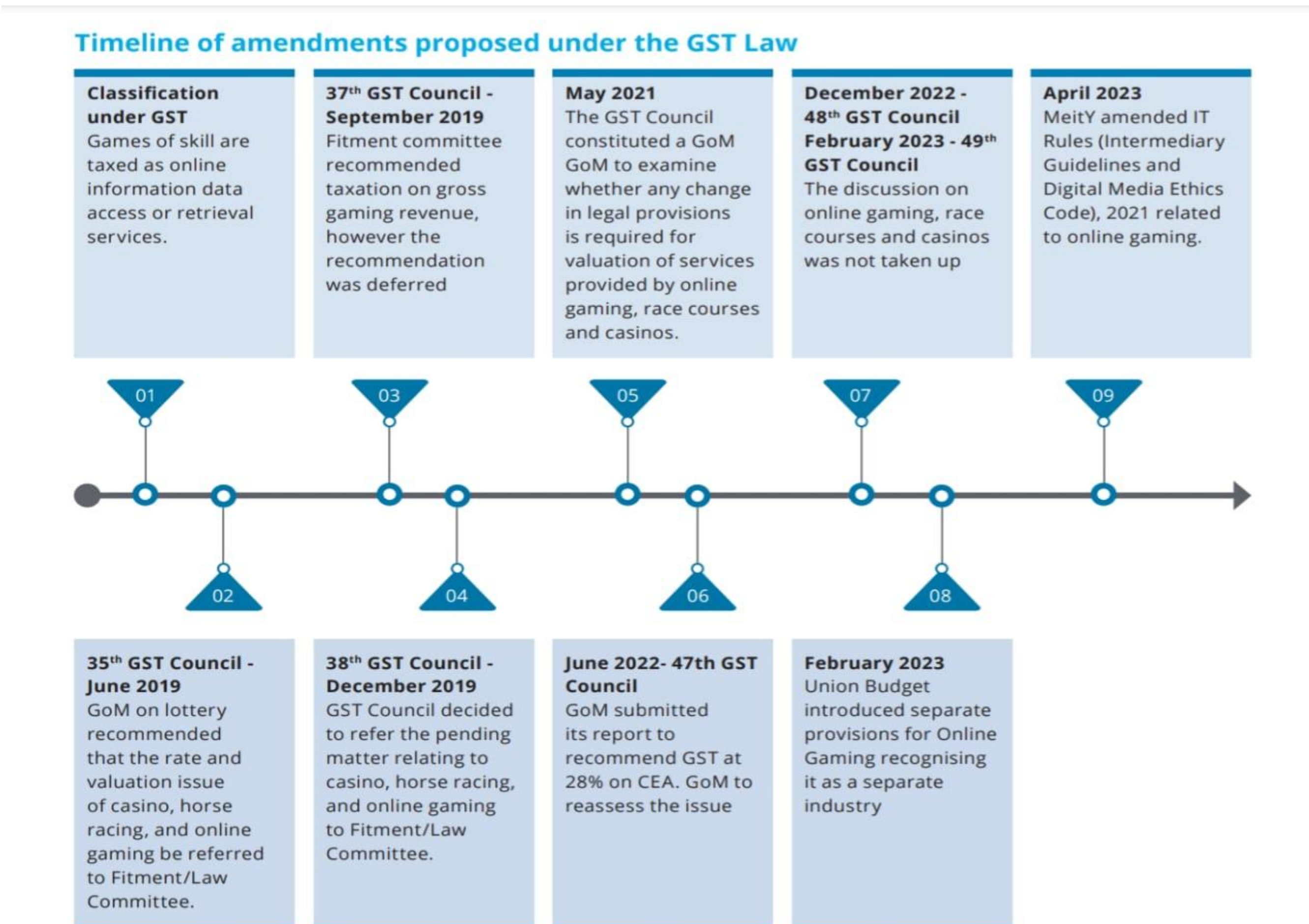
[8] Legal Framework of Online Gaming Industry
[9] High Courts Acceptance of Online Gaming

(a) requirement of material skill
(b) presence of a budget to select team
(c) attribution to fantasy points system
(d) fair play and healthy competition
(e) presence of 'how to play' and 'frequently asked questions' on the OFSP, among others.

In light of Entry 34 of List II of the Seventh Schedule to the Constitution and the Public Gambling Act, 1867, it can be concluded that the terms "betting" and "gambling" under Entry 6 of Schedule III of the CGST[10] Act must be interpreted the same way as the courts have in the past. Games of skill are not and cannot be included in the definitions of "betting" and "gambling" in Entry 6 of Schedule III of the CGST Act.




[10] Common Acronyms: Central Goods and Services Act(CGST)

## Goods and Services Tax[11]

The "actionable claims other than lottery, betting, gambling, and horse racing" are not regarded as either a supply of goods or a supply of services, according to Schedule III of the CGST[12] Act, 2017, as amended from time to time. As a result, actionable claims resulting from online skill games are not considered to be a provision of either commodities or services. The current GST law prohibits the imposition of GST on actionable claims resulting from online skill games; therefore, the CEA is not subject to a 28 percent GST; instead, the GGR is subject to an 18 percent GST. Contrarily, lotteries fall under HSN Code 999694, while gambling and betting activities fall under HSN Code 999692, and the GST is applied at a rate of 28 percent to both the face value of the lottery ticket and the total amount wagered, respectively. The HSN Code 998439 classifies the online skill gaming services as an Online information database access and retrieval service (OIDAR), and a GST of 18% is applied to the Platform Fee (PF)/Gross Gaming Revenue (GGR), a fee levied by the platform to facilitate user play.

## Tax Deducted at Source (TDS) and Income Tax

[13]Online games were recognised as a distinct sector by the introduction of new Sections 194BA and 115BBJ in the Finance Act of 2023, which revised the Income Tax Act of 1961. The new regulations require OGIs to withhold Tax Deducted at Source (TDS) at a rate of 30% from the net winnings of the user account, either throughout the financial year in the case of withdrawal or at the conclusion of the financial year.

TDS at the rate of 30% was only applicable to winnings exceeding INR 10,000 previously. The tax cost for users and the compliance burden for OGIs have increased as a result of the new amendments. The government recently prescribed the method for calculating net wins at the moment of withdrawal or at year's end in a notification dated May 22, 2023. Net winnings for the purpose of Section 194 BA will be calculated as follows:

***Net winnings = A - (B+C); (Total withdrawal - (Total fresh deposits + Opening Balance)***

*where, A = Amount withdrawn from user account*

*B = Aggregate amount of non-taxable deposits made in the user account by the owner of such account during the FY, till the time such a withdrawal is made. In layman's terms, the amount deposited by the individual in his/her user account*

*C = Opening balance of user account at the beginning of the financial year*

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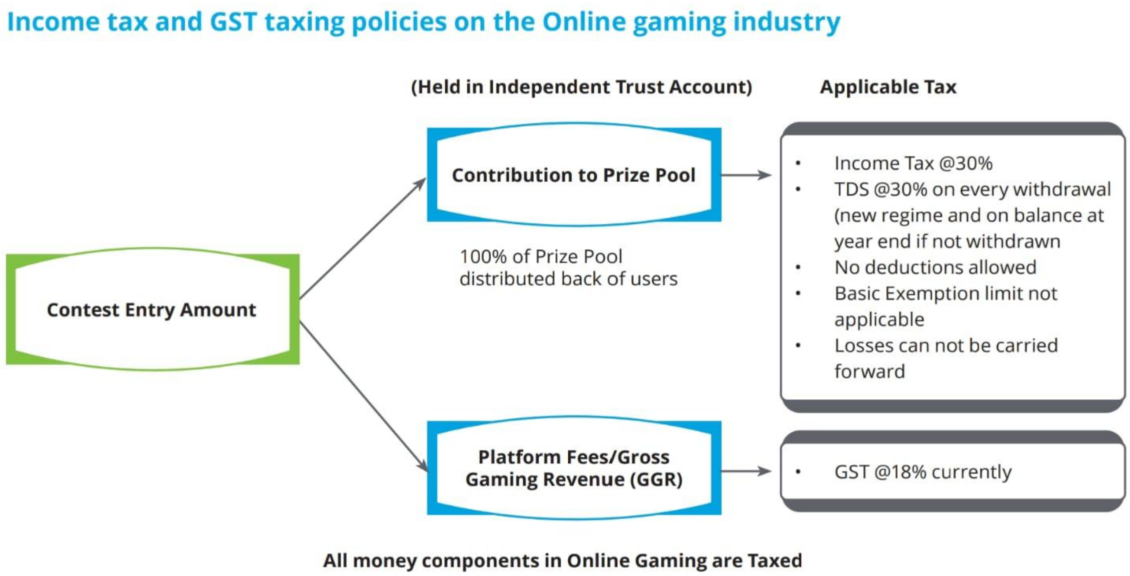
[11] Legal Framework of GST

[12] *Common Acronyms: Contest Entry Amount(CEA), Gross Gaming Revenue(GGR), Goods And Services Tax(GST), Central Goods and Services Tax(CGST),Online Gaming Intermediaries(OGI'S)*

[13] Legal Framework of TDS

It is important to note that no prizes or prize money income will be exempt from income tax under the new TDS[14] regime and the elimination of the previous threshold of INR 10,000. Platforms are now entirely responsible and liable for withholding tax at the maximum rate, or 30% of net winnings.

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## Impact of the new tax policy on Industry

Treating games of skill as akin to gambling, betting, or the lottery under the tax statute would result in an error of classification. The industry believes that the 28% tax policy would cause considerable upheaval to the market, ultimately hurting both short-term and long-term growth of the sector.

Let us look at the impact of the 28% tax policy on the online gaming industry:

1. ***Consumer shift to offshore platforms:*** The new 28% tax policy can lead to a consumer shift from domestic lawful platforms to offshore illicit platforms due to the increase in the tax rate. These offshore platforms may provide more enticing terms, drawing customers looking to avoid paying higher tax rates. This shift exposes consumers to potentially risky markets without access to a grievance redressal mechanism.

2. ***Job Losses:*** The increased tax burden on the online gaming business is anticipated to have negative effects, especially for various gaming startups operating in the market. The new tax

[14] *Common Acronyms: Tax Deducted at Source(TDS)*
[15] Income Tax and GST on Online Gaming (Image source)

policy could lead to the shutdown of many online gaming companies, which would result in a huge loss of jobs. An estimated 60,000 jobs could be at risk, and the industry would miss the opportunity to add 20,000 skilled positions.[16]

3. ***Overall De-Growth of the Industry:*** The industry may need to cut expenses to offset the increasing tax burden, which will have a domino effect. Within the first five years, legitimate industry income would decrease by 33 to 43 times the existing levels. This is anticipated to lead to less expenditure in marketing and IT services, as well as diminished innovation and R&D investments.

4. ***Reduction in Industry and GST Revenue:*** GST revenue is lower by 48 percent in year 4 and 72 percent in year 5 when taxed at 28 percent on CEA [17]compared with 18 percent on GGR (No mitigation). GST revenue is lower by 25 percent in year 4 and 58 percent in year 5 when taxed at 28 percent on CEA compared with 18 percent on GGR (With mitigation).[18]

## Key findings

**1. Five-year GST revenue**

| GST revenue | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 |
|---|---|---|---|---|---|
| **Base scenario: 18% on GGR** | 2.34 | 3.46 | 4.14 | 5.51 | 7.32 |
| **Scenario 1: 28% on GGR** | 3.46 | 3.98 | 4.57 | 5.26 | 6.05 |
| **Scenario 3: 28% on CEA, no mitigation by platform** | 8.40 | 5.88 | 4.12 | 2.88 | 2.02 |
| **Scenario 4: 28% on CEA, mitigation by platform** | 9.80 | 7.35 | 5.51 | 4.13 | 3.10 |

[19]

5. ***Venture capital Funds are at risk:*** Thirty international and local investors, including +Tiger Global, Peak XV, and Steadview Capital, have asked Indian Prime Minister Shri Narendra Modi to examine a 28% gaming tax because they claim it will deter $4 billion in potential investments. The ruling would negatively impact prospective investments

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16 Impact on Jobs due to New Tax Policy

17 *Common Acronyms: Contest Entry Amount(CEA), Gross Gaming Revenue(GGR), Goods And Services Tax(GST)*

18 Reduction in GST revenue due to New Tax Policy

19 Five Year GST Revenue (Image source)

amounting to at least $4 billion in the next 3–4 years and hence the growth of the gaming sector in India. Similar requests were made to the finance minister lately by over 100 gaming companies, which said the levy would discourage foreign investment and jeopardise $2.5 billion already committed to the industry.

## Forecasting and Modelling Techniques

1. ***Present scenario***[20]

   ***(18% Tax rate on GGR):*** The CEA includes the GGR, GST, and Prize Pool (PP) because online gaming industries are now required to impose GST at a rate of 18% on the GGR. For the next five years, the Online gaming industry is expected to see a CAGR of 33 percent, which also represents the rate of user growth.

   *Assumptions*

   a. CAGR for the Online gaming industry is 33% for the present scenario.

   b. The number of users is 10, and the CEA per user is ₹10. (Let us suppose there are 10 players who will be playing in a particular pool that has an Entry Ticket of ₹10)

   c. Growth rate signifies user growth rate.

   d. GGR is 13 percent of CEA and exclusive of GST.

   e. 11 percent of CEA per game per user is the cost incurred by the platform, which includes the cost of software, infrastructure, marketing, customer acquisition, etc. Costs increase or decrease in the same proportion as user growth or degrowth.

**Calculation summary of baseline scenario: Tax at the rate of 18 percent on GGR**

| | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Total |
|---|---|---|---|---|---|---|
| **% growth rate** | | 33 | 33 | 33 | 33 | |
| **CEA in INR** | 100.00 | 133.00 | 176.89 | 235.26 | 312.90 | **958.05** |
| **PF (13% of CEA) in INR** | 13.00 | 17.29 | 23.00 | 30.58 | 40.68 | **124.55** |
| **GST in INR** | 2.34 | 3.11 | 4.14 | 5.51 | 7.32 | **22.42** |
| **PP in INR** | 84.66 | 112.60 | 149.76 | 199.17 | 264.90 | **811.09** |
| **Cost in INR** | 11.00 | 14.63 | 19.46 | 25.88 | 34.42 | **105.39** |
| **Margin in INR** | 2.00 | 2.66 | 3.54 | 4.71 | 6.26 | **19.16** |

[21][22]

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20 Forecasting and Modelling Techniques by Deloitte

21 *Common Acronyms: Contest Entry Amount(CEA), Gross Gaming Revenue(GGR), Platform Fees(PF), Pool Price(PP), Compounding Annual Growth Rate(CAGR), Goods And Services Tax(GST)*

22 Tax at the rate of 18% on GGR (Image source)

*Observation:*

Since the government has proposed the increase in tax rate, a study of several scenarios has been conducted to determine how the change will affect various stakeholders, including industry and consumers. To give a comprehensive picture of how the platform would address the increasing cost to users and the impact of those decisions on the platform's operations and users, various scenarios have been mapped.

### 2. *Alternate Scenario*[23]

***(28% Tax rate on GGR):*** In this case, the GGR, GST, and PP are all included in the CEA. The industry has two options to cover the increasing tax obligation: either bear the full expense or transfer it partially or entirely to customers. Whatever option is selected, the industry's growth is predicted to slow down in the first year by 0.05 percent before picking up in the next four years at a lower pace of 15 percent. Reduced profit margins and marketing costs are to blame for the decreased customer retention rate, which is what's causing the growth to slow down. As a result, the user's prize pool will be smaller.

**Calculation summary of alternate scenario (1): 28% tax on GGR**[30, 31]

| | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Total |
|---|---|---|---|---|---|---|
| **% growth rate**[31] | -5% (compared to base scenario) | 15 | 15 | 15 | 15 | |
| **CEA in INR** | 95.00 | 109.25 | 125.64 | 144.48 | 166.16 | **640.53** |
| **GGR (13% of CEA) in INR** | 12.35 | 14.20 | 16.33 | 18.78 | 21.60 | **83.27** |
| **GST in INR** | 3.46 | 3.98 | 4.57 | 5.26 | 6.05 | **23.32** |
| **PP in INR** | 79.19 | 91.07 | 104.73 | 120.44 | 138.51 | **533.94** |
| **Cost in INR** | 10.45 | 12.02 | 13.82 | 15.89 | 18.28 | **70.46** |
| **Margin in INR** | 1.90 | 2.19 | 2.51 | 2.89 | 3.32 | **12.81** |
| **% change in GST compared with baseline** | 47.78% | 27.78% | 10.48% | -4.47% | -17.40% | |

[24][25]

In this case, Online gaming industries might decide to pass the higher cost and tax liability on to users or to bear it themselves. As a result, it is anticipated that industries will become much less profitable because they are more likely to experience financial difficulties, lower profit margins, and worse user retention. Additionally, compared to the base case, tax revenues that initially rise over a

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23 Forecasting and Modelling Techniques by Deloitte

24 *Common Acronyms: Contest Entry Amount(CEA), Gross Gaming Revenue(GGR), Platform Fees(PF), Pool Price(PP), Compounding Annual Growth Rate(CAGR), Goods And Services Tax(GST),Online Gaming Intermediaries(OGI'S)*

25 28% tax on GGR (Image source)

three-year period are smaller. This is because a higher tax rate will result in a slower growth rate for the industry.

The nascent start-up ecosystem in the online gaming industry will be severely harmed by higher GST; many of them may be forced to scale down their investment and expansion plans as a result of the increased tax burden and reduced profit margins.

3. ***Alternate scenario: 28% Tax rate on GGR***[26]
   ***(Entire Tax increase is absorbed fully by the OGI's):*** Currently, the GGR levied by the various Online gaming industries ranges from 5 to 25 percent of the CEA. This GGR range is less than the CEA's proposed tax liability of 28 percent. This suggests that OGIs would have trouble meeting the whole tax burden without significantly changing their GGR or operating expenses if the proposed tax rate of 28 percent on CEA were to become law. It could be necessary for OGIs to reevaluate their business strategies and make modifications in order to maintain their financial viability and comply with the new tax laws.

   The 1,115 percent tax rise will be too much for the OGIs to bear, making it difficult for any OGI to break even. As a result, both small and major companies will leave the market when the industry as a whole becomes unprofitable. Additionally, this would eventually move consumers to the grey market and offshore. Even the government's revenue exchequer will decline.

   Let us now analyse the other potential outcomes, in which the higher tax responsibility is either totally or partially transferred to the consumers, and how that would affect the tax collections and the viability of the platform.

4. ***Alternate scenario***
   ***(Entire tax increase is passed on to consumers):*** In this case, the OGIs would not use any method to mitigate the greater tax burden brought on by higher taxes; instead, all of the cost increase would be passed on to customers. As a result, OGIs would continue to charge the same GGR as in the base case, and platform users would be responsible for paying the total increased tax liability. This implies that customers will pay the whole cost of the higher taxes imposed on the OGIs, which may result in higher prices or less PP being offered to those using these platforms. According to the industry's sensitivity study, the total industry would see a 70% de-growth in CEA in the first year and a 30% Y-o-Y reduction in CEA for the next four years.

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[26] Forecasting and Modelling Techniques by Deloitte

**Calculation summary of alternate scenario (3): Entire tax increase is passed on to users**

| | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Total |
|---|---|---|---|---|---|---|
| **% growth rate** | -70% (compared with base scenario) | -30% | -30% | -30% | -30% | |
| **CEA in INR** | 30.00 | 21.00 | 14.70 | 10.29 | 7.20 | **83.19** |
| **PF (13% of CEA) in INR** | 3.90 | 2.73 | 1.91 | 1.34 | 0.94 | **10.82** |
| **GST in INR** | 8.40 | 5.88 | 4.12 | 2.88 | 2.02 | **23.29** |
| **PP in INR** | 17.70 | 12.39 | 8.67 | 6.07 | 4.25 | **49.08** |
| **Cost in INR** | 3.30 | 2.31 | 1.62 | 1.13 | 0.79 | **9.15** |
| **Margin in INR** | 0.60 | 0.42 | 0.29 | 0.21 | 0.14 | **1.66** |
| **% change in GST compared with baseline** | 258.97% | 88.93% | -0.56% | -47.66% | -72.45% | |

[27]

*Observation:*

In this case, legitimate domestic OGIs would be significantly impacted by the market deceleration, drop in CEA, and decreased profit margin, resulting in the closure of these platforms. The financial status of these platforms would get even worse due to the increase in taxes and increasing consumer acquisition expenditures. Additionally, increased customer acquisition costs suggest that luring in new users is more costly, which is likely to have an impact on revenue production and add to the financial burden. Additionally, compared to what would have been collected at the 18 percent rate on GGR, the diminished profitability of these platforms results in a significant fall in the GST received by the government.

5. ***Alternate scenario***[28]

***(Partially passed on to consumers):*** It was noted in the above scenarios that neither the OGIs[29] nor the customers will be able to fully absorb the additional tax burden without having a negative impact on the sector. OGIs may therefore attempt to mitigate by sharing the extra tax liability in order to ensure viability and sustainability.

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[27] Entire Tax increase is passed on to users (Image source)

[28] Forecasting and Modelling Techniques by Deloitte

[29] *Common Acronyms: Contest Entry Amount(CEA), Gross Gaming Revenue(GGR), Platform Fees(PF), Pool Price(PP), Online Gaming Intermediaries(OGI'S), Goods And Services Tax(GST)*

As a result, the OGIs' possible mitigation method is to partially absorb and partially pass along the additional tax to consumers. In other words, OGIs will aim to lower the GGR and therefore the tax burden on customers. OGIs can try to counteract the shift in user behaviour or the market degrowth by lowering the GGR. The industry is expected to experience a 65 percent drop in CEA in year 1 and a 25 percent Y-o-Y reduction in CEA for the next four years, according to estimates based on the industry data presented. However, this reduction in the GGR is only expected to ameliorate the user shift by 5 percent.

The industry would nevertheless see significant revenue declines throughout the indicated period, despite the fact that this mitigation method would help to reduce the burden on users to some extent. The success of this technique may depend on a number of variables, including the users' willingness to utilise the platform despite the lower CEA and the industry's overall competitive environment.

**Calculation summary of alternate scenario (4): Partially passed on to consumer**

| | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Total |
|---|---|---|---|---|---|---|
| **% growth rate** | -65% (compared with base scenario) | -25% | -25% | -25% | -25% | |
| **CEA in INR** | 35.00 | 26.25 | 19.69 | 14.77 | 11.07 | **106.78** |
| **PF (11% of CEA) in INR** | 3.85 | 2.89 | 2.17 | 1.62 | 1.22 | **11.75** |
| **GST in INR** | 9.80 | 7.35 | 5.51 | 4.13 | 3.10 | **29.90** |
| **PP in INR** | 21.35 | 16.01 | 12.01 | 9.01 | 6.76 | **65.13** |
| **Cost in INR** | 3.85 | 2.89 | 2.17 | 1.62 | 1.22 | **11.75** |
| **Margin in INR** | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | **0.00** |
| **% change in GST compared with baseline** | 318.80% | 136.17% | 33.18% | -24.90% | -57.65% | |

[30]

*Observation:*

The CEA and profit margin of OGIs will be impacted cumulatively by the GGR decline and general market degrowth in the outlined scenario because the Online gaming industries will be operating at break-even and will experience a decline in innovation and technological advancement.

A GGR of 11% is regarded as the cutoff mark for OGIs to maintain and operate at the break-even point. Even with this price reduction, the market's declining size will cause costs like labour and marketing expenses to decline proportionally. Despite these efforts, platform revenues will keep

[30] Tax increase is partially passed on to users (Image source)

*Common Acronyms: Contest Entry Amount(CEA), Gross Gaming Revenue(GGR), Platform Fees(PF), Pool Price(PP), Online Gaming Intermediaries(OGI'S), Goods And Services Tax(GST)* declining, underscoring the difficult financial predicament the online gaming industry is in. The government's GST revenue will be impacted by the ensuing decline in GGR. Compared to what would have been collected under the 18% or 28% rate on GGR, the amount of GST collected will be significantly lower.

*Conclusion of the whole study*[31]*:*

**GST revenue comparison with 18% on GGR**

| | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 |
|---|---|---|---|---|---|
| **28% GGR** | 47.78% | 27.78% | 10.48% | -4.47% | -17.40% |
| **28% CEA - fully passed on to consumers** | 258.97% | 88.93% | -0.56% | -47.66% | -72.45% |
| **28% CEA - partially passed on to consumers** | 318.80% | 136.17% | 33.18% | -24.90% | -57.65% |

[32]

These results suggest that imposing GST on CEA, even with mitigation measures, would have detrimental effects on GST revenues as well as the sustainability and expansion of the industry's revenues. According to the sector, the initial increase in GST collection by taxing CEA results in value destruction for the sector and limited subsequent GST revenues. Within the first five years, industry revenue would significantly fall, and when comparing the tax structures, considerable discrepancies would be seen. These observations highlight the possible impact on GST revenues as well as the sector's overall revenue of changing the tax structure to tax CEA rather than GGR.

## Historic Examples of the UK, France, and Denmark

Based on the analysis, it has been observed that most of the countries follow the GGR-based taxing model. The CEA-based taxing model would invariably make online skill gaming intermediaries less competitive and unappealing to consumers compared with operators offering the same products taxed on the GGR. The shift of the taxation system from the CEA model to the GGR model in the UK and France for the online gaming industry brought positive changes to the economy, ranging from high employment, an increase in industry revenue, more investments injected into the economy, an increase in government tax revenue, and a drop in the shift of users to offshore platforms. Similarly, an increase in the tax rate from 20% to 28% in the GGR model led to people moving to offshore platforms.

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[31] Result of the New Tax Policy by Deloitte

[32] GST Revenue Comparison (Image source)

*Common Acronyms: Contest Entry Amount(CEA), Gross Gaming Revenue(GGR), Goods And Services Tax(GST)*

In 2001, the UK abandoned its policies of turnover-based taxation, under which the CEA was subject to a 6.75 percent tax. In 2003, the UK implemented a GGR-based taxation system in response to these developments. One of the main goals of this change was to enable distant gaming companies to establish headquarters in Great Britain and fall under national regulation. The major bookmakers quickly moved their overseas telephone and internet betting operations to the UK. Numerous new jobs were created as a result of the proposed change in the UK gaming industry. Because of this, industry turnover has increased by 35 to 40%, leading to more funding and investments. The transition to the GGR-based taxing model resulted in a sharp drop in unlawful activity levels in the industry. The amount of money the government collected in taxes increased.

France has been making the sector less competitive by putting heavy tax burdens on it. The government assessed a tax on the whole contribution (CEA) that was given by the users. The Court of Auditors reported in October 2016 that French taxes were excessive as a result of this decision on the taxable base, particularly given the high rates. To change the tax model from the CEA to the GGR with regard to the computation of gaming tax, the French Senate presented a Budget Bill in 2020. They noticed that the sector was paying taxes on money that wasn't their revenue in an unjust manner. The Senate pointed out that because the majority of bet money was refunded to the customers, the operators were taxed on amounts they did not really receive. The Senate claimed that the adjustment would ensure that tax bills would take industrial success fluctuations into account.

According to the Danish government, increasing the tax rate from 20 percent of GGR to 28 percent of GGR will ultimately generate DKK 150 million (£17.1million, €20.1million, or US$22.3million)[33] in more tax revenue. However, it was noted that any large increase in the tax rate will result in a decrease in marketing expenses to maintain profitability given the narrow profit margin of operators. It was mentioned that the domestic market will experience a 22 percent reduction due to the rise in taxation from 20 percent on GGR to 28 percent on GGR. In other words, the gambling business suffered a 22% decline as a result of the 40 percent rise in tax obligations. The paper also demonstrates how the higher tax harms consumer welfare by driving more players to offshore venues with lesser stand

[33] Denmark shifting of tax rate from 20% to 28%

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## Policy Suggestions

The online gaming business has reacted differently to the latest tax policy of 28%. Some participants and operators have applauded the decision, claiming that it will bring desperately needed regulation and will stop people from getting addicted to gambling. Some others worry that the high tax rate will impede industry innovation and growth.

The following policy recommendations could be made to enhance the 28% tax rate on online gaming:

***1. Taxing on GGR rather than CEA:*** Levying tax on the full entry ticket size will leave no margin for the player as well as the online gaming organisations. For Example: Let us suppose a player enters the pool with a ticket size of ₹100. Earlier the gaming platforms used to charge a platform fee, let's say (10%) which is the GGR of ₹10; therefore, they used to pay GST of 18% on the GGR, which would be ₹1.8 in this case. Now if it is levied on the 28% on CEA, which is ₹100 results in ₹28 which is an increase in tax responsibility of about more than 1400%. This major difference will not be absorbed by both the organisations and players, leading to the end of online gaming platforms. Therefore, tax should be levied on the Gross gaming revenue component itself.

***2. Proper Regulatory Framework:*** All forms of online gaming, including games of skill and games of chance, are subject to the new tax laws. This is unfair to the owners of skill-based games, which require a significant amount of skill and strategy to win. A proper regulatory framework should be passed in courts regarding the distinction between games of chance and games of skill and should be subject to open debate from both sides. A reduced tax rate for skill-based games could encourage a positive gaming environment and promote the growth of games that involve strategic thinking and expertise. Pure skill should not be considered a sin.

***3. Microtransactions and Differentiated Tax Rates:*** Take into account using a separate tax rate for smaller and bigger transactions. To promote user involvement without putting a significant financial burden on users, microtransactions, which frequently have minor transaction values, could be subject to a lower tax rate.

***4. Tax Credits for Skill Development:*** Provide tax breaks to gaming companies that make investments in programmes that improve players' cognitive and strategic thinking abilities through their games. This might fit well with the government's larger agenda for skill development.

5. ***Two-Tired Legislation:*** A two-tiered licencing system similar to the one used in the US might likewise be developed through harmonised regulations. The regulation's primary goal will be to limit games that may be categorised as gambling or those that include gambling as their primary component. Licencing could be introduced at the second layer. Companies that use ads as part of their marketing strategy may occasionally be required to apply for a licence from the state automatically. Since adopting this method, Colorado has mandated that online gaming intermediaries with more than 7,500 players apply for a licence and register players to verify that they are at least 18 years old.

6. ***Consultation with Players and Organisations:*** There should be proper consulting discussions to understand the effect of the new tax policy on the industry as well as the players, and a framework should be created involving both parties.

It's important for the government to strike a balance between generating revenue and fostering a thriving gaming industry while addressing concerns related to addiction and financial losses. The government, industry stakeholders, and specialists working together can result in a tax policy for the online gambling business that is more efficient and comprehensive.

## Conclusion

In recent years, India's online gaming market has seen enormous expansion and popularity and has become a thriving industry. The most recent legislative and regulatory changes have given the industry a clear and thorough roadmap for its development as a significant player in the digital economy.

Some reports estimate that the proposed change in the GST regime for online gaming services from the current 18 percent on GGR to 28 percent on CEA may render the Online gaming industry unviable as the increase in GST burden could be more than 1,000 percent in one of the scenario analyses. This estimate is based on the revenue, cost, and consumer behaviour-related data and assumptions shared by the industry. The proposed valuation modification essentially taxes the Online gaming industries in addition to their revenue source. However, the government is of the view that the policy will stop people from getting addicted to gambling apps.

The report calculates the possible impact on industry growth and predicts a decrease in government revenue over the next five years if GoM[34] recommendations are carried out using scenario analysis and modelling

[34] *Common Acronyms: Contest Entry Amount(CEA), Gross Gaming Revenue(GGR), Goods And Services Tax(GST), Group of Ministers(GoM),Online Gaming Intermediaries(OGI'S)*

methodologies based on the data and assumptions given by the industry. The proposed tax system may have a cascading impact, according to the analysis in this study based on information and assumptions provided by the industry, as the industry's collapse will result in lower revenue for both the OGIs and the government. Additionally, it might discourage investors from funding the sector, which would have an impact on growth, infrastructure, innovation, and jobs.

According to international best practises, it appears that the GGR tax model allows the sector to continue to exist and grow, whereas the CEA based taxation approach gradually drives customers to offshore gaming platforms and could have a negative influence on the industry.In order to preserve a viable and sustainable online gaming environment in India, taxation under the GST should take into account market dynamics, customer affordability, substitutability, and competitiveness.

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