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**Taxability of prize money / winnings
under GST**

IPL has just witnessed its most competitive season. Seeing the prize distribution ceremony, an interesting dilemma caught our attention, 'What would be the tax implications of prize money given to top performers of the tournament?' Is it a gift, is it a consideration for service, or none of these?

Taxation of prize money has always been a bone of contention, be it under income tax, erstwhile indirect tax laws or now in GST. If we ponder upon broad cases where prize money is given, following come to our mind:

- Sports leagues like IPL, ISL etc. (Man of the Match, Man of the Series)
- Car, Bike or Horse Races (Winnings or Prize Money)
- TV game shows like KBC, Dance Shows
- Online gaming
- Gambling, betting

This article aims to throw light on multiple controversies and aspects related to taxability of prize money under GST.

GST is levied on supply of services for a consideration in the course or furtherance of business. Hence, to determine if prize money is exigible to GST or not, one needs to analyze whether there is a supply in the course of business, and if there is a corresponding consideration for such supply. In the upcoming paragraphs, we have delved into the issue to assess if these parameters are present in case of prize money.

Is the activity in course of business?

An important aspect in GST is that an activity is taxable only when it is undertaken in the course and furtherance of business. In case of TV game shows, online gaming, gambling, betting etc, participants or gamblers do not undertake any activity in the course of their business. Such activity is undertaken in personal capacity and does not usually fall under definition of business.

On the other hand, if a professional participates in any event, he renders his professional services to the event organizer. For instance, a cricketer, a footballer or a horse rider are practicing their respective profession and as part of their profession, they participate in sports leagues or races. Hence, activities undertaken by them are in course of their business.

Is prize money in nature of consideration?

For a professional player or a rider, the next question that becomes relevant is whether prize money given to them for performing well or winning the race can be said to be consideration for their service or not? It is trite law that there should be a direct nexus between supply and amount received as consideration. Recently, Maharashtra Appellate Authority for Advance Ruling examined the issue in case of **Vijay Baburao Shirke, 2019 (30) GSTL 63 (AAR-GST)**, wherein the Authority carved out that uncertain nature of consideration breaks the direct nexus between supply and consideration. Certain decisions of erstwhile service tax laws and EU VAT laws also advocate this view. In essence, they conclude that prize money cannot be said to be consideration for service rendered.

After careful consideration of the above jurisprudence, authors do not coincide with this view. In their view, prize money is directly linked to the participation service. It is only that that consideration is subject to player's performance. Under contract law, promise to pay consideration may be absolute or conditional, and conditional consideration is payable only upon satisfaction of specified conditions. A conditional consideration, say prize money, will not vitiate the nature of contract. In authors' view, it will not break the direct nexus between the services provided and consideration promised.

Authors find support from Australian GST Rulings, echoing the view that participants provide participation services to the event organizer for which they receive prize money as consideration. The Rulings clarify that prize money would become taxable for participant, if participation is done in the furtherance of its enterprise. It was further observed that the fact that prize is not awarded to every participant will not alter the fact that participation services are provided to the organizer. In authors' view, this case can also be considered similar to success fee models, wherein consideration is payable only if desired results are achieved (case is won or benefit is accrued to recipient).

Conclusion

The issue of taxability of prize money needs to be analyzed afresh under GST. The wide definition of business as well as nexus with consideration may result in taxation of prize money. Having said this, taxpayers may analyze their facts and decide to adopt favorable jurisprudence of service tax and EU VAT to dispute levy of GST. The moot question which looms at large is whether prize money amounts to consideration for supplying participation services. It will be interesting to witness the probable litigation on this issue amid upswing in prize-winning competitions at various platforms.



Deepak Suneja
Partner
(Author)
NITYA Tax Associates



Aasmee Mangla
Managing Associate
(Co-Author)
NITYA Tax Associates



Shubham Agarwal
Associate
(Co-Author)
NITYA Tax Associates

