Goods and Service tax (GST) on horse racing

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Source: *The Hindu*

Manifest pedagogy:GST has been facing various bottlenecks including filing, implementation, frequent changes and a call for GST 2.0. IN lght of such actions, the importance of GST, cess and surcharge etc need to be classified according to luxury and non luxury items.

In news: The matter of GST on horse racing has been referred to a Group of Ministers (GoM).

Placing it in syllabus: Taxation in India (explicitly mentioned)

Static dimensions:

- GST and luxury goods
- GST cess
- Gifts and GST

Current dimensions: Issue of Horse racing GST

Content:

GST and luxury goods:

- According to the Luxury Tax Act, **'Luxury' means a service or commodity that is specified as ministering comfort,** enjoyment or pleasure to a person's life.
- The government has proposed a 4-tier tax structure under GST for all goods and services under the slabs- 5%, 12%, 18% and 28%.
- The "luxury items" have been put under the highest tax bracket of 28%.

- Luxury Taxes was under the purview of almost all State Luxury Acts.
- Under the GST regime, the GST council has established different tax slabs for hotels and restaurants depending on their turnover and considering the criteria of air conditioned or non-air conditioned.

28% tax slab:

- Entertainment events-amusement facility, water parks, theme parks, joy rides, merry-go-round, race course, go-karting, casinos, ballet, sporting events like IPL
- Race club services
- Gambling
- Food/drinks at AC 5-star hotels
- Accommodation in 5-star hotels or above

GST cess:

- GST cess is a **compensation cess** levied under Section 8 of the **GST (Compensation to State) Act, 2017.**
- As **GST is a consumption based tax,** some states that are a net exporter of goods and/or services experienced a decrease in indirect tax revenue.
- Hence GST cess is **levied on intra-state and inter-state supply of goods or services** to provide compensation to the States for loss of revenue.
- This cess would be levied for a period of **5 years from GST implementation.**
- All the proceeds received from the GST compensation cess would be **credited to a non-lapsable fund known as the Goods and Services Tax Compensation Fund.**
- The funds would then be used for compensating tax revenue loss to States.
- If any funds are unutilised, then at the end of the transition period, it would be shared in half by the Central Government and State Governments.
- **All taxable persons under GST, except taxpayers**

registered under GST composition scheme are expected to collect and remit GST cess.

- The cess must be calculated on the basis of the taxable value of the supply and as provided in the GST cess rate schedule.
- In case GST cess is applicable on goods imported into India, then cess must be levied and collected along with the IGST and customs duty.

Gifts and GST:

The gifts are provided by the company for the purpose of advancement of business or for sales promotion. The law has tried to include some specific provisions relating to gifts under GST. The GST has not specifically defined the term "gift".

In common parlance, gift is made without consideration, is voluntary in nature and is made occasionally.

- **Gifts upto a value of Rs 50,000/- per year** by an employer to his employee are outside the ambit of GST.
- **Gifts of value more than Rs 50,000/-** made without consideration are subject to GST, when made in the course or furtherance of business.
- The **services by an employee to the employer** in the course of or in relation to his employment is outside the scope of GST.
- Similarly the **supply by the employer to the employee in terms of contractual agreement** entered into between the employer and the employee, will not be subjected to GST.
- If such **services like membership of a club, health and fitness centre** are provided free of charge to all the employees by the employer then the same will not be subjected to GST, provided appropriate GST was paid when procured by the employer.
- The same would hold true for free housing to the

employees, when the same is provided in terms of the contract between the employer and employee and is part and parcel of the cost-to-company (C2C).

Issue of Horse racing GST:

- The **Turf Authority of India (TAI),** an organised association of six race clubs in India, had urged the Centre and States in June, 2019, to rework norms related to applicability of GST on horse racing.
- It had suggested levying **GST on only commission or service fee retained by a race club** and **exclude prize money** of the winner.
- The association had also pushed for a **lower rate of GST – 18 per cent,** as the **Supreme Court had declared horse racing as 'game of skill' and not a 'game of chance.'**
- **At present**, GST is levied at the rate of **28 per cent on the total bet value.**
- During horse racing, many people known as **punters**, place a bet.
- Race clubs act as the service provider for the **wagering transaction.**
- GST is levied on the total value including the commission levied by race club and thus actual outgo for punters is much less.
- According to the association, this promotes illegal betting which in turn results in less revenue for the government and race club.

(Ex: the revenue for Bangalore Turf Club during pre-GST regime was over ₹1,900 crore which came down to nearly ₹850 crore immediately after the introduction of GST).

- It also affects horse breeding sector and various allied activities.
- The States of Tamil Nadu,West Bengal, and Karnataka had raised the issue at the GST Council appointed **Fitment Committee** meeting and in turn, it had recommended the

GST on horse-racing should be payable only on commissions and not include the prize money.

- Hence, the GST Council recently has referred the matter of horse racing and how it must be taxed to a Group of Ministers (GoM) which will submit its recommendation shortly.