



Supreme Court on Taxing Lotteries

For Prelims: Online Gaming, Gambling, Karnataka Police (Amendment) Act, 2021, Game of Skill, Game of Chance, Lottery, Betting

For Mains: Judgements & Cases, Online Gaming and its Impact, Laws related to Gambling, Betting and Lottery

Why in News?

Recently, the [Supreme Court](#) in a judgement held that a **state legislature has the right to impose tax on lotteries conducted by other States within its jurisdiction.**

- Earlier, the [Karnataka High Court delivered a judgement](#) striking down major portions of the **Karnataka Police (Amendment) Act, 2021** which banned online gambling and skill-based gaming platforms.
- In 2020, the Supreme Court held that [lottery, gambling and betting are taxable](#) under the [Goods and Services Tax \(GST\) Act, 2017](#).

What is the Background of the Decision?

- The judgement came on **appeals filed by the Karnataka and Kerala governments against the decisions of their respective High Courts** to quash laws enacted by their legislatures to tax lotteries organised and promoted by the States of Nagaland, Arunachal Pradesh, Sikkim, Manipur in Kerala and Karnataka.
- The **High Courts had found the tax laws enacted by the two States invalid and unconstitutional** and had even directed Kerala and Karnataka to **refund the money collected as tax** from lotteries to the north-eastern States.

What was the Supreme Court's Ruling?

- The court observed that **'lotteries' is a "species of gambling activity"**.
 - 'Betting and gambling' is part of the **State List in the [Seventh Schedule of the Constitution](#)**.
 - The power to tax is on all activities which are in the nature of **'betting and gambling' including lotteries**.
 - **Betting and gambling is a genus and includes several types or species** of activities such as horse racing, wheeling and other local variations/forms of 'betting and gambling' activity.
- The court observed that since, there is **no dispute that lotteries, irrespective of whether it is conducted or organised** by the Government of India or the Government of State or is authorised by the State or conducted by an agency or instrumentality of State government or Central government or any private player, is **'betting and gambling'**, State legislatures have the power to tax lotteries under **Entry 62 of the [State List](#)**.
 - This is because the **taxation contemplated under the said Entry** is on 'betting and

gambling' activities which also includes lotteries, irrespective of the entity conducting the same.

What are the Central Laws Related to Lottery, Gambling and Betting?

- **The Lotteries Regulation Act, 1998:**
 - Lottery is considered legal in India. **Lottery should be organised by the state government** and the place of Draw should be in that particular state.
- **Indian Penal Code, 1860:**
 - The code has provisions for punishing anyone who to the annoyance of others does any obscene act in a public place or sings, recites or utters any obscene song, ballad or words, in or near any public place.
 - These provisions of the IPC may be attracted if any obscene matter is used for the purpose of advertising **betting and gambling activities**.
- **Foreign Exchange Management Act, 1999:**
 - Remittance of the income generated from **lottery winning, racing/riding** is prohibited under this Act.
- **Information Technology Rules, 2011:**
 - Under these rules, any internet service provider, network service provider or any search engine will not host any such content which directly or indirectly supports Gambling.
- **Income Tax Act, 1961:**
 - Current taxation policy in India **covers all types of Gambling industry directly and indirectly**. Thus, it can be said that all regulated and legalised **Gambling** is supported in the **Gross Domestic Product (GDP)** of India.

UPSC Civil Services Examination, Previous Year Questions (PYQs)

Q. The Parliament of India acquires the power to legislate on any item in the State List in the national interest if a resolution to that effect is passed by the (2016)

- (a) Lok Sabha by a simple majority of its total membership
- (b) Lok Sabha by a majority of not less than two-thirds of its total membership
- (c) Rajya Sabha by a simple majority of its total membership
- (d) Rajya Sabha by a majority of not less than two thirds of its members present and voting

Ans: (d)

Source: TH