

# GOODS AND SERVICES TAX ON LOTTERY IN INDIA – AN OVERVIEW\*

## INTRODUCTION

Everyone wants to win a lottery and live life happily ever after. But after the introduction of Goods and Services Tax in July, 2017 Lottery Business itself ran in to a crisis. The levy of GST was on the face value of lottery tickets, including the prize money awarded to winners. And, this has crippled the lottery industry by the rampant increase in illegal lottery. Additionally, it has also affected the tax collection of the Government. Taxation of Lottery was done under two tax brackets 12% and 28%.

Goods and Services Tax (GST) is a destination based tax. It is one indirect tax for the whole nation, which will make India one unified common market. It is based on the principle One Nation One Tax. GST is a single tax on the supply of goods and services, right from the manufacturer to the consumer.

Credits of input taxes paid at each stage will be available in the subsequent stage of value addition, which makes GST essentially a tax only on value addition at each stage. The final consumer will thus bear only the GST charged by the last dealer in the supply chain, with set-off benefits at all the previous stages.

The single GST subsumed several taxes and levies, which included central excise duty, services tax, additional customs duty, surcharges, state-level value added tax and Octroi. Other levies which were applicable on inter-state transportation of goods have also been done away with in GST regime.

GST on lottery sales has caught the attention of GST Council since the 31st GST Council Meeting held on 22<sup>nd</sup> December, 2018. Tax revenue from the sale of lottery tickets has been a major source of Exchequer for the Government. At present, **lotteries** run by state governments attract 12% **GST** while those authorised by them and sold outside the state are taxed at 28%.

The Lotteries (Regulation) Act, 1998 defines Lottery under Section 2(b)

(b) “lottery” means a scheme, in whatever form and by whatever name called, for distribution of prizes by lot or chance to those persons participating in the chances of a prize by purchasing tickets;

A lottery is a form of gambling that involves the drawing of numbers at random for a prize. Lotteries are outlawed by some governments, while others endorse it to the extent of organizing a national or state lottery. It is common to find some degree of regulation of lottery by governments; the most common regulation is prohibition of sale to minors, and vendors must be licensed to sell lottery tickets. The CBIC has clarified that HSN classification of the lottery shall be “Any Chapter” and tax would be paid at applicable rates (12% or 28%).

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*Views expressed in the Article is the sole expression of the Author and it does not express the views of the Institute.*

‘Lottery tickets’, is actionable claim and is classified as ‘Goods’, under GST. However, an actionable claim is specifically covered under the negative list-schedule III of the CGST Act, 2017 keeping it outside the scope of GST. But there are exceptions to schedule III. Sale of Lottery tickets is one of them

Hence, the sale of lottery tickets would be considered to be the **supply of taxable goods** and will attract GST on Lottery sales.

In case of supply of lottery tickets, the value for charging GST shall be **higher of the following**:

1. The Face value of ticket
2. Price notified by the organising state.

### **PAYMENT OF TAX UNDER REVERSE CHARGE**

In the case of lottery run by State Government, the tickets are sold by the State Government to lottery distributor /selling agent. The selling agent is required to pay tax under **reverse charge**.

Subsequently, when the selling agent supplies such tickets to sub-agent, no tax is required to be paid. The local sub-agent is also not required to pay any tax. Thus, a tax is levied at single – point under reverse charge in case of lottery run by State Government.

However, in the case of lottery authorised by State Government, the tax is to be paid under the forward charge by the lottery selling agent (i.e. supplier). A tax must also be paid at each stage of supply.

<b>Lottery run by State Government</b>	<ol style="list-style-type: none"> <li>1. Tickets sold by State Government</li> <li>2. Lottery distributor must pay tax on reverse charge at the time of procurement of tickets from the Government.</li> <li>3. No tax required to be paid further when sold to sub-agent / customer, if a tax is paid by a distributor.</li> <li>4. Sub-agents not required to register under GST</li> </ol>
<b>Lottery authorised by State Government</b>	<ol style="list-style-type: none"> <li>1. Tax paid under the charge by the supplier of lottery tickets</li> <li>2. The tax must be paid at each point of supply under normal charge. When selling agent sells tickets to sub-agent, he must pay GST.</li> <li>3. Sub-agents must register under GST and pay tax.</li> </ol>

### **INVOICING REQUIREMENTS**

Supply of lottery tickets must be under the cover of tax invoice containing all particulars required in an invoice. The invoice is required to be issued with the sale of a lottery ticket. There is no relaxation in invoicing requirements for a supplier of lottery tickets.

### **TIME OF SUPPLY**

The time of supply of lottery tickets shall be earlier of the following dates:

1. Date of issue of invoice or last date when the supplier is required to issue an invoice.

2. Date on which supplier receives the payment for supply.

When a person pays the amount to participate in a lottery or to buy the lottery ticket, the amount of money paid to participate is treated as payment for supply.

#### **DETERMINATION OF PLACE OF SUPPLY**

- Lottery run by State Government is always an intra-state supply. The place of supply will always be the State which runs the lottery game. This is because such a lottery scheme is always conducted within the State.
- Lottery authorised by the State Government but conducted by agencies can be an inter-state or intra-state supply. The place of supply will have to be determined as under:
  - **When supply involves the movement of goods:** The place of supply shall be the location of goods at the time at which movement of goods terminates for delivery to the recipient.
  - **When supply does not involve the movement of goods:** The place of supply shall be the location of goods at the time of delivery to the recipient.

#### **CONCLUSION**

**All decisions in the previous 37 meetings of the GST Council, headed by the union finance minister with state ministers as its members, had been taken unanimously.** But the Goods and Services Tax (GST) Council **38<sup>th</sup> meeting** held on 18<sup>th</sup> December, 2019 departed from its practice of consensus-based decision-making, opting the first time for a vote to settle differences among states over the taxation of lotteries.

The Goods and Services Tax (GST) Council led by our honourable Finance Minister has voted to increase the rate as well as implement a single rate for lotteries. Buyers would now have to shell out 28 per cent GST on lotteries.

Before the GST Council meeting on Friday, the lottery industry pitched for a single rate of 12 per cent and removal of tax on the prize money. Currently only lotteries run by the state and state-owned agencies levy 12 per cent GST. Industry players that are authorised by the state government and who sell outside the organising state and are conducted by private players attract 28 per cent tax.

Since there were wide differences among finance minister of various states, the issue of tax on lotteries was prompted to a panel of ministers that was set up in January, 2019. The eight-member group of ministers was constituted under the chairmanship of Maharashtra Finance Minister. The panel had recommended that the council would decide either on 18 per cent or 28 per cent GST for lotteries.

All lotteries are organised by states as per the provisions of Lottery Regulation Act 1998. Currently ten states in the country including Maharashtra, West Bengal, Punjab and Arunachal Pradesh allow lotteries.

After the meeting single rate of GST @ 28% on both State run and State authorized lottery was fixed which would be effective from 1<sup>st</sup> March, 2020.

#### **References :**

1. <https://cleartax.in/s/gst-impact-lottery-tickets>
2. <https://economictimes.indiatimes.com/gst>