



**CHAMBER OF TAX CONSULTANTS**

*IN COLLABORATION WITH*



**INDIAN LAW SOCIETY'S ILS LAW COLLEGE, PUNE,  
MAHARASHTRA**

*presents*

**1<sup>ST</sup> NATIONAL CHAMBER OF TAX CONSULTANTS INDIRECT  
TAX MOOT COURT COMPETITION, 2024**

**DATES: 16<sup>th</sup> AND 30<sup>th</sup> MARCH, 2024**

### **MOOT PROPOSITION**

1. 'PlayRummy Ltd.' (hereinafter referred to as 'the Company') is an online intermediary company which is, *inter alia*, engaged in the running of technology platforms that allows users to play skill-based online games against each other.
2. The Company is duly registered under the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'CGST Act') read with Central Goods and Services Tax Rules, 2017 (hereinafter referred to as 'CGST Rules') and to the corresponding provisions of Maharashtra Goods and Services Act, 2017 (hereinafter referred to as 'MGST Act') read with Maharashtra Goods and Services Tax Rules, 2017 (hereinafter referred to as 'MGST Rules'). The Company is paying Goods and Services Tax (hereinafter referred to as 'GST'), wherever applicable and filing returns on regular intervals as prescribed under the provisions of CGST / MGST Act read with rules made thereunder.
3. On a purported information, the proper officer had undertaken search and seizure operations on the premise of the Company between 12.10.2021 to 15.10.2021. During the course of such investigation, the proper officer had seized various documents / devices and accordingly, *panchanamas* were issued. On the basis of the aforesaid investigation, the proper officer had issued a notice dated 20.10.2021, *inter alia*, proposing the attachment of the bank accounts of the Company in accordance with the provision of Section 83 of the CGST Act read with rules made thereunder. The Company has filed a detailed reply, *inter alia*, explaining why such provisional attachment of their bank account is improper and bad in law. However, without considering and appreciating the submissions of the Company, the proper officer had passed an Order dated 01.11.2021 (hereinafter referred as 'Attachment Order dated 01.11.2021'), *inter alia*, confirming the action of attachment of bank account.
4. Aggrieved and dissatisfied by the Attachment Order dated 01.11.2021, on 04.11.2021, the Company had approached the Hon'ble High Court of Bombay in Writ Petition No. 1212 of 2021, *inter alia*, challenging the legality and validity of the Attachment Order dated 01.11.2021 under Article 226 of the Constitution of

India. The Hon'ble High Court of Bombay heard the matter out-of-turn and was pleased to pass an interim order dated 05.11.2021, *inter alia*, directing the Proper Officer to release the bank accounts and to maintain the *status quo* till the disposal of the matter before the Hon'ble High Court.

5. Nevertheless, the Proper Officer, without following the direction made in the Interim Order dated 05.11.2021, continued the investigation. As a result, the officials and other key personnel of the Company were summoned by the proper officer to record their statements in terms of Section 70 of the CGST Act. Recording of the statements continued up to July 2022.
6. While the matter is pending before the Hon'ble High Court, on the basis of the aforesaid investigation, the Proper Officer has issued an Intimation Notice on 22.08.2022 under Section 74 (5) of the CGST Act, *inter alia*, directing the Company to deposit a sum of Rs. 5.90 crores along with interest and penalty. The Company responded to the Intimation Notice on 22.08.2022. Vide reply dated 22.08.2022, the Company, *inter alia*, repudiated to pay such sum of deposit on account of various grounds and further, requested the Proper Officer to keep the proceedings in abeyance in light of the pendency of the issue before the Hon'ble High Court of Bombay.
7. Despite a request from the Company to keep the matter in abeyance, the Proper Officer went ahead and issued a Show Cause Notice No. 0101/2021-22/SCN dated 02.09.2022 ('hereinafter referred to as 'SCN dated 02.09.2022'). Vide SCN dated 02.09.2022, the Proper Officer, *inter alia*, proposed a demand of Rs. 5.90 crores under Section 74(1) of the CGST Act along with applicable interest thereon under Section 50 (1) of the CGST Act and also proposed to impose a penalty under Section 122 (2) of the CGST Act on several allegations which are elucidated as under:
  - (i) The Company is providing an online platform for playing rummy which is a game of chance and thus, comes under the purview of wagering, betting and gambling. In as much as rummy is a game of chance and involves betting / gambling, it would be covered under the ambit of actionable claims in accordance with the definition of 'actionable claims' under the provisions of Section 2(1) of the CGST Act read with Entry 6 of Schedule III of the CGST Act. Therefore, the activity of playing rummy falls under

the scope of supply in terms of Section 7 of the CGST Act and hence taxable.

- (ii) the Company has made a windfall profit by earning a huge revenue in the form of 'buy-in' amount and has not paid GST on such revenue earned.
  - (iii) the Company has been involved in the activity of inducing the players to indulge in more game plays by providing several discounts / bonuses.
  - (iv) the Company has not been issued proper invoices which is in contravention of Section 31 of the CGST Act.
8. The Company filed a detailed reply on 30.09.2022 to the aforesaid SCN dated 02.09.2022. Vide the reply dated 30.09.2022, the Company, *inter alia*, refuted each and every allegation levelled therein. A personal hearing was conducted before the concerned Adjudicating Authority on 15.10.2022. The Company appeared through their advocates and authorised representative. The Company relied upon various case laws and submitted as under:
- (i) It has been reiterated, time and again, by the Apex Court and various High Courts that 'Rummy' is a game of skill and not a game of chance. Further, playing of the Rummy online will, in no manner whatsoever, take away the character of rummy being a game of skill. Therefore, the allegation that the Company is being involved in betting / gambling is incorrect and perverse.
  - (ii) The actual business practice undertaken by the Company has been conveniently overlooked. The Company is engaged in the facilitation service as an online intermediary. Accordingly, the Company is paying GST on such supply of facilitation services and duly filing returns thereof.
  - (iii) The proper officer has attempted to inflate the taxable amount by including the 'buy-in' amounts which is outrightly absurd and irrational. This clearly depicts that the Proper Officer has not bothered to look into the contractual arrangements made between the Company and the players.
  - (iv) It is grim to comprehend how providing the discounts or bonuses or incentives to market the business of the Company will amend the nature

of games played by the players on the platform from ‘game of skill’ to ‘game of chance.’

- (v) The Company has not contravened any provision stipulated under law and therefore, the proposal of alleged demand along with levy of interest and imposition of penalty does not hold good in the eyes of law.
9. However, without considering and appreciating the submissions made by the Company and case laws relied upon by them, the Adjudicating Authority passed an Order-in-Original No. 22/2022-23 dated 06.01.2023 (hereinafter referred to as ‘OIO dated 06.01.2023’). The OIO dated 06.01.2023, *inter alia*, confirmed the demand raised in the SCN dated 02.09.2022 along with applicable interest and penalty thereon and upheld the allegations mentioned in the SCN dated 02.09.2022 in *toto*.
10. Aggrieved by the aforesaid OIO dated 06.01.2023, on 02.02.2023, the Company filed a Writ Petition No. 4321 of 2023 before the Hon’ble High Court of Bombay under Article 226 of the Constitution of India. Vide the said Writ Petition, the Company, *inter alia*, prayed for quashing of the SCN dated 02.09.2022 and the OIO dated 06.01.2023 on the following grounds / question of law which are urged herewith without prejudice to one another:
- A. Whether, in the facts and circumstances of the present case, the present petition is maintainable under Article 226 of the Constitution of India?
  - B. Whether, in the facts and circumstances of the present case, the Proper Officer / Adjudicating Authority in issuing the purported SCN dated 02.09.2022 and OIO dated 06.01.2023 had violated the principles of natural justice?
  - C. Whether, in the facts and circumstances of the present case, the concerned officer is attempting to usurp a settled and accepted issue by re-agitating the decided issue that rummy is a game of skill and not a game of chance which is in flagrant violation of the principle of judicial discipline?
  - D. Whether, in the facts and circumstances of the present case, the concerned officers committed a breach of law, particularly in the light of

the basic principles that the CGST Act provide a complete code with regard to the levy and collection of GST and whether such an act is bad, illegal, erroneous, arbitrary and unsubstantiated in law?

E. Whether the act of the Proper Officer / Adjudicating Authority is violative of Article 19 (1)(g) read with Article 21 of the Constitution of India?

11. Upon hearing the brief facts of the case on the first date of hearing and considering the Revenue's objection against maintainability of the Writ Petition, the Hon'ble Court adjourned the matter to another date with a direction that on the next date, the matter would be heard for its admissibility as well as for final disposal.

**Note:** The provisions of CGST Act / Rules and MGST Act / Rules are the same except for certain provisions. Therefore, unless specifically mentioned to any dissimilar provisions, a reference to the CGST Act / Rules would also mean a reference to the same provision under the MGST Act / Rules.