

# WRITE TO INFORMATION

Sports & Gaming Laws,  
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## **New Delhi**

C-2/39  
Safdarjung Development Area  
New Delhi – 110016 | India

## **Mumbai**

604, 6th floor, Regent Chambers,  
208, Nariman Point,  
Mumbai-400021 | India

## **Bengaluru**

316, 3rd Floor Raheja Chambers,  
No. 12, Museum Road,  
Bengaluru - 560001 | India

## ABOUT US

TMT Law Practice is a boutique law firm providing a full suite of services in the TMT sectors. Over time, the firm's practice has expanded from a niche boutique IP practice, to include practice areas such as commercial disputes resolution & arbitration, regulatory litigation & advisory, corporate/commercial advisory and transactional support, and policy and legislative drafting across industry verticals. The Firm represents a broad range of clients including Fortune 500 companies, as well as MSMEs and Start-ups.

The firm engages in the practice of the conventional domains of law, and, is also heavily invested in the niche areas of emerging technology, including space technology and policy; healthcare and ICT; data privacy and protection; and, sports laws.

The Firm stresses on developing well-rounded, solution - oriented professionals, who specialize in client - focused service delivery.



## 1. GAMING DEVELOPMENTS (India and International)

- i. **Madras High Court struck down the Tamil Nadu Gaming and Police Laws (Amendment) Act, 2021:** While disposing off the petition filed in the case of *Junglee Games India Pvt. Ltd. & Ors. vs. The State of Tamil Nadu & Anr.*, the Hon'ble High Court of Madras declared the Tamil Nadu Gaming and Police Laws (Amendment) Act, 2021 to be *ultra vires* of the Constitution in its entirety and struck it down.

It was opined that the Tamil Nadu Gaming Act, 1930 is meant to regulate and ban, only, gambling and games of chance. Thus, the attempt, *via* the said amendment, to widen the scope of applicability of the legislation, without any jurisdiction and in a departure from established interpretation of terms by the Supreme Court of India for the past 50 years, was held to be wrong and unconstitutional.

In a landmark judgment, it was held that the act of extending the field of jurisdiction amounts to usurpation of an authority that the State has not been conferred under Entry 34 of the State List (List II) of the Seventh Schedule to the Constitution of India, i.e., "Betting and Gambling". Thus, even though a game of skill involves staking, the State has no power to legislate the same in view of the fact that a game of skill does not qualify as a gambling activity.

- ii. **The Karnataka State legislature passed the Karnataka Police (Amendment) Bill, 2021 to restrict online gaming and gambling:** The State legislature of Karnataka amended the Karnataka Police Act, 1963 ("Act") and passed the Karnataka Police (Amendment) Bill, 2021 ("Amendment") to restrict online gaming and gambling. Through this Amendment, the protection earlier provided to the 'games of skill' is taken away and betting and wagering on games of skill is now prohibited.

The Amendment imposes a criminal liability of three years and fine up to 1 lakh rupees, or both, on both – 'games of chance' and 'games of skill' for stakes. It also, imposes a criminal liability of six months and ten thousand rupees, or both, on being present or aiding and abetting of such games for stakes in any format or platform.

- iii. **Telangana State Government Announced its Intention to Introduce New Norms for Online Gaming<sup>1</sup>:** The Government of Telangana announced that it is in the process of framing new rules for online gaming, with a goal of developing an industry-friendly, progressive regulation, encouraging self-regulation and game development in the State. The draft bill to this effect has been circulated with the relevant stakeholders for suggestions.

- iv. **Kerala High Court strikes down Notification dated 23.02.2021 (under Section 14A of the Kerala Gaming Act 1960); Allows offering online Rummy for stakes<sup>2</sup>:** The Hon'ble High Court of Kerala on September 27, 2021, while disposing off *Gamescraft Technologies v. State of Kerala and ors.*<sup>3</sup>, held that online rummy is a game of skill and not a game of chance, and thus, falls outside the ambit of gambling.

The Kerala Gaming Act, 1960, originally exempted games of skill, provided that no side betting shall be allowed in the offering of such games of skill. However, on February 23, 2021, the Kerala State Legislature introduced a notification, through which the online format of rummy when played with stakes was excluded from the above stated exemption. Thereby, prohibiting the offering and playing of online rummy, for stakes, in the State of Kerala. The Court herein, also held the foregoing notification to be unconstitutional, as it violated the gaming operators' right to trade and commerce under of Article 19(1)(g) of the Constitution.

- v. **Online Gaming Industry Seeks Clarity on Goods and Services Tax (GST)<sup>4</sup>:** Ernst & Young, in collaboration with the All-India Gaming Federation, released the 'Online gaming in India – The GST Conundrum' Report which highlights the global best practices for taxation and provides clarity on aspects related to valuation and applicable GST rates.

This Report outlines three options pertaining to the mechanisms that can be used: (a) GST on rake free value; (b) deemed credit model; & (c) GST on entire stake value but at a nominal rate of 1.8%.

- vi. **Madras High Court Dismissed PIL against Celebrity Endorsement of Online Games:** The Hon'ble High Court of Madras dismissed the PIL filed, last year, against six cricket celebrities endorsing online games in *Mohammed Razvi v. TRAI and ors.* The petitioner claimed that the celebrities in question were in a position to influence youngsters to participate in online betting, that eventually leads to increasing suicides. However, the Hon'ble High Court dismissed the petition for it to be baseless and held that there was no doubt that the petition was fuelled by the petitioner's ambition to propel himself into stardom by questioning the participation of several celebrities in endorsement deals.
- vii. **Supreme Court held Dream 11 to fall outside the purview of 'gambling':** The Hon'ble Supreme Court of India (SC) dismissed a Special Leave Petition questioning the legality of online Fantasy Sports, in the case of *Avinash Mehrotra vs. The State of Rajasthan & Ors.*<sup>5</sup> It was held that activities of Dream 11 do not amount to gambling. SC, relying on its earlier position and citing a recent judgement of the State of New York Supreme Court, stated that the said issue was no longer *res integra* i.e., *it is a point of law that has been decided.*
- viii. **Apple can No Longer Prohibit Developers from Including Links that Drive Users Away from Apple's Store:** Fortnite makers, Epic games, initiated a suit against Apple for Epic's right to offer its own payment options, as Apple's payment options charged a high percentage of fee (30%) on Epic. It claimed that Apple was acting in a monopolistic manner and was taking advantage due to the popularity of its platform by its rigid App store policies. The suit was against Apple's anti-competitive behaviour.
- The Hon'ble court:**
- a. issued an injunction that stated that Apple shall no longer prohibit developers from directing their users to different forms of in game payment website. Users can use other forms of payment other than the one provided by Apple itself;
  - b. found Apple to engage in anticompetitive conduct and practices under the California Law and was forced to change its anti-competitive and anti-steering provisional with the tight grip over in app purchases;
  - c. however, did not find Apple as an anti-trust monopoly in the submarket for mobile gaming transactions; and
  - d. concluded that Epic games had breached the provisions of the Developer Program License Agreement and Apple was entitled to the compensation for the breach, which constitutes 30% of the revenue that was withheld from Apple during the attempt to bypass the said payments.
- ix. **Singapore Proposed to Update Gambling Laws and Definition:** The Ministry of Home Affairs of Singapore announced that it is seeking feedback from the public on certain proposed amendments to the existing gambling legislation. The proposed amendments seek to address two trends in the gambling landscape: first, advancements in technology relating to the internet and mobile computing that have made gambling products more accessible; and second, the blurring of boundaries between gambling and gaming and the introduction of gambling elements in products that are not traditionally perceived as gambling.
2. **DELHI HIGH COURT RESTRAINS BROADCASTING RIGHTS OVER TOKYO OLYMPICS**<sup>8</sup>
- The Hon'ble High Court of Delhi *vide* an exparte interim order directed internet service providers (ISPs) to block access to these websites illegally broadcasting the games on their platforms and also asked Central government to issue necessary directions/notifications calling upon various ISPs to block access to the rogue websites.
- The order came in light of the plea made by Sony, as the exclusive broadcaster rights holder, that several websites and broadcasters illegally exhibit pirated content.

**3. ASCI SLAMS ENTITIES FOR UNAUTHORIZED USAGE OF ATHLETE IMAGES<sup>9</sup>**

Post the 2020 Olympics, several entities (such as Aditya Birla Group, Apollo Hospitals, NSE 1.06 %, Perfetti Van Melle and BrandOnWheelz) advertised images and clips of Olympic winning athletes, without their explicit permission by applauding the athletes' efforts. The Advertising Standards Council of India (ASCI) stated that with the unauthorised inclusion of the Olympic athletes, the advertisements could be misleading as consumers would think that such athletes genuinely endorse or use the advertised products. To address another similar issue, badminton athlete PV Sindhu<sup>10</sup>, through her management agency, has sent legal notices to several entities for making unauthorised use of her image for marketing their products post the Tokyo Olympics 2020.

**4. MANIKA BATRA VS. TABLE TENNIS FEDERATION OF INDIA (TTFI)<sup>11</sup>**

Pursuant to a petition filed by the paddler, Manika Batra, the Delhi High Court has sought for the Ministry of Youth Affairs & Sports to enquire into the management of the Table Tennis Federation of India (TTFI).

She was not selected for the Indian contingent for the upcoming Asian TT Championship as she did not comply with the mandatory attendance protocol at the national coaching camp to be eligible for selection.

She alleged that TTFI was carrying out selection procedures in a non-transparent manner. She further asserted that the national coach was in clear conflict of interest as he runs a private Table Tennis academy and on one occasion pressurized her to throw away the match in order for his private trainee to qualify.

**5. AIFF'S GUIDELINES FOR FINANCIAL SUPPORT TO PLAYERS, COACHES AND SUPPORT STAFF<sup>12</sup>:**

All India Football Federation (AIFF) initiated a policy to create a support system for football

players and technical staff who have served Indian National Teams and may require support related to hospitalisation costs, or grants to their families in case of the footballer's death. The Head Coach, Assistant Coach, Goalkeeping Coach and the FIFA Referees/FIFA Assistant Referees fall under the periphery of the technical staff. AIFF has laid down certain guidelines for an individual to apply for financial support and all players/technical staff who have represented the country since 1950 are eligible to apply. Each request will be assessed on a case-to-case basis on the basis of the guidelines laid down.

**6. THE USSF (UNITED STATES SOCCER FEDERATION) ATTEMPTED TO RESOLVE ATHLETE GENDER PAY DISPUTE<sup>13</sup>:**

USFF has offered identical contracts to the player association of men's and women's national teams. In 2019, players from the women's team filed a lawsuit against the USSF over equal pay and working conditions. The proposed contracts will be delivered to the players associations operating on behalf of the men's and women's national teams, according to a statement from the USSF, with the goal of bringing both national squads under a single collective bargaining agreement.

**7. PROPOSAL FOR A BIENNIAL FOOTBALL WORLD CUP<sup>14</sup>**

FIFA has proposed that the men's World Cup be held every two years instead of every four years as it is now.

From 2024 onwards, the general objective is to reorganise the international football schedule. The presentation emphasised the importance of more top-level tournaments and fewer qualifying games, with a biannual men's World Cup as the main takeaway. The pushback from Europe was almost immediate and may lead to a boycott movement 80 former internationals such as Ronaldo, Jurgen Klinsmann, Roberto Carlos, Dider Drogba, Peter Schmeichel, Tim Cahill went to Qatar for two days of FIFA-hosted talks and emerged with consensus for playing the tournament twice as often.

**8. ECB REQUESTED ICC FOR DISPUTE RESOLUTION ON THE CANCELLED FIFTH TEST - INDIA VS. ENGLAND<sup>15</sup>**

England Cricket Board has written to the International Cricket Council seeking a dispute resolution committee verdict on the fate of the cancelled match that was to be played on 10th September at Manchester. A forfeiture would allow the ECB to get an insurance pay-out of 40 million pounds, helping it to offset the losses because of the cancellation.

If considered as abandoned due to COVID-19, India will officially win the series as 2-1 as it would be considered as 'acceptable non-compliance' according to the World Test Championship Rules.

**9. UPDATES FROM COURT OF ARBITRATION FOR SPORTS (CAS)**

i. **LaLiga appeals CAS against FIFA, CONMEBOL<sup>16</sup>:** The Spanish football league filed an application with the CAS seeking interim measures against a FIFA decision to extend the South American Football Confederation (CONMEBOL) World Cup qualifying window. LaLiga claimed that calling up players for international duty during the CONMEBOL international match violates the rights of the clubs involved. CAS dismissed the application and ruled in favor of FIFA, compelling LaLiga to release their players who have been called up by CONMEBOL nations for the full window.

ii. **CAS upheld the appeal filed by Football Association of Albania and Nedim Bajrami for the change of association from Switzerland to Albania<sup>17</sup>:** The appeal arose from the decision of FIFA Players' Status Committee dated 27.05.2021 which denied the above change of association. CAS stated that: "A request to change association may be granted only in the following circumstances: a) the player: i) was fielded in a match in an official competition at any level (with the exception of "A" international level) in any kind of football for his current association; and ii) at the time of being fielded for his first match in an official competition in any kind of football for his current association, he already held the nationality of the association

which he wishes to represent." It was found by the CAS panel that Nedim never played with the Swiss national team and already held Albanian nationality. Hence, the appeal was upheld.

iii. **CAS Ad Hoc Division Vitaliy Khudyakov (KAZ) vs. FINA: Case Settled Amicably:** The International Olympic Committee (IOC) has granted the International Swimming Federation (FINA) an additional marathon swimming quota place for Tokyo 2020. FINA has offered this addition to the Swimming Federation of the Republic of Kazakhstan. This addition would allow Kazakhstan's Vitaliy Khudyakov to compete in the 10 kilometres event.

The issue stemmed from the fact that in 2019, Vitaliy participated in the marathon swimming event at the 9th Asian Open Water Swimming Championships (Championship) which was identified, at that time, as a qualifying event for Tokyo 2020. However, on 16th July 2021, FINA informed the Swimming Federation of the Republic of Kazakhstan that the Championship was not a Qualification Event for Tokyo 2020. Vitaliy thereafter, filed an application before CAS seeking a ruling that he be entitled to compete in the marathon swimming event at the Tokyo 2020. However, the application was withdrawn for the reasons of amicable settlement between the parties involved.

iv. **CAS rejects the applications filed by the National Olympic Committees of Belgium and the Netherlands<sup>18</sup>:** NOC Belgium sought an annulment of the decision of reinstating the USA and Dominican Republic relay teams to the 4x400m mixed relay (Relay) final. These 2 teams were disqualified from Heat 1 of the Relay; however, the World Athletics Jury of Appeal decided otherwise and the 2 teams were allowed to participate in the Relay finals. CAS rejected the application as it opined that the applications filed, challenged the decisions of the field of play. Field of play decisions are the application and interpretation by umpires, referees and officials of the rules which govern sporting competitions. CAS Ad Hoc Division has the power to review and overturn the field of play decisions if there is some evidence that the relevant rule was applied arbitrarily, in bad faith or by fraud.

## References

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<sup>1</sup><https://www.livemint.com/sports/news/telangana-to-implement-new-norms-for-self-regulation-of-fantasy-gaming-11629905232908.html>

<sup>2</sup>[https://hckinfo.kerala.gov.in/digicourt/orders/2021/215700084402021\\_3.pdf](https://hckinfo.kerala.gov.in/digicourt/orders/2021/215700084402021_3.pdf)

<sup>3</sup>WP (C) No. 7785 of 2021

<sup>4</sup><https://www.aigf.in/game/industry-body-aigf-ey-suggest-online-gaming-sector-be-kept-under-18-gst/>

<sup>5</sup>C:/Users/user/Downloads/dream11-397998.pdf

<sup>6</sup>SLP (C) No. 18478/2020

<sup>7</sup><https://www.mha.gov.sg/mediaroom/press-releases/public-consultation-on-the-review-of-gambling-laws/>

<sup>8</sup>[http://delhihighcourt.nic.in/dhcqrydisp\\_o.asp?pn=167192&yr=2021](http://delhihighcourt.nic.in/dhcqrydisp_o.asp?pn=167192&yr=2021)

<sup>9</sup><https://economictimes.indiatimes.com/industry/services/advertising/asci-slams-brands-using-olympics-winners-in-ads-without-approval/articleshow/85080169.cms?from=mdr>

<sup>10</sup><https://economictimes.indiatimes.com/news/sports/pv-sindhu-may-take-brands-to-court-for-moment-marketing/articleshow/85051244.cms>

<sup>11</sup>[http://delhihighcourt.nic.in/dhcqrydisp\\_o.asp?pn=168191&yr=2021](http://delhihighcourt.nic.in/dhcqrydisp_o.asp?pn=168191&yr=2021)

<sup>12</sup><https://www.the-aiff.com/article/aiff-launches-medical-support-policy-for-players-technical-staff-and-referees>

<sup>13</sup><https://www.washingtonpost.com/sports/2021/09/22/uswnt-equal-pay-lawsuit-appeal/>

<sup>14</sup><https://indianexpress.com/article/sports/football/fifa-unveils-biennial-world-cup-plan-uefa-threatens-boycott-7499613/>

<sup>15</sup>'ECB has written to ICC on outcome of cancelled Test' - The Hindu

<sup>15</sup><https://www.espn.in/football/spanish-laliga/story/4464483/cas-rejects-laliga-appeal-over-world-cup-qualifiers-extension>

<sup>17</sup>[https://www.tas-cas.org/fileadmin/user\\_upload/CAS\\_Media\\_Release\\_8075.pdf](https://www.tas-cas.org/fileadmin/user_upload/CAS_Media_Release_8075.pdf)

<sup>18</sup>[https://www.tas-cas.org/fileadmin/user\\_upload/CAS\\_Media\\_Release\\_Tokyo\\_9\\_ENG.pdf](https://www.tas-cas.org/fileadmin/user_upload/CAS_Media_Release_Tokyo_9_ENG.pdf)



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Get In Touch:

+91 (11) 2651 2813 | +91 (11) 4168 2996

info@tmtlaw.co.in | M-F: 9am-6pm

[www.tmtlaw.co.in](http://www.tmtlaw.co.in)