

Jumbo Trumpets...

Revenue loses the gamble

Gameskraft ratio:

1. The judgment of the Division Bench of the Karnataka High Court in the All India Gaming Federation case is not per incuriam or sub-silentio, as it refers to and considers all relevant judgments and holds that playing games of skill for stakes does not amount to gambling.
2. The principle of nomen-juris states that legal terms should be interpreted in their legal sense, as established by judicial interpretation.
3. Games of skill and games of chance have distinct meanings in judicial parlance. Games like rummy require skill and are not considered gambling, whereas games of chance involve predominance of chance.
4. The expression "betting and gambling" in the CGST Act should be interpreted based on previous judicial interpretations in the context of Entry 34 of List II of the Constitution and the Public Gambling Act, 1867.
5. When words have received a clear judicial interpretation, subsequent statutes using the same words should be interpreted accordingly, unless a contrary intention appears.



6. Games of skill, including rummy, are not included in the terms "betting" and "gambling" in Entry 6 of Schedule III of the CGST Act and are not taxable.

7. The impugned show cause notice issued by the respondents to the petitioners, claiming taxation on online rummy and other games of skill, is illegal, arbitrary, and without jurisdiction.

Before Parting...

"Res extra commercium" refers to things outside of commerce which are immoral or noxious activities and in India, lottery, betting and gambling are considered so. Further, this doctrine restricts the scope of freedom of trade and commerce guaranteed under Article 19(1)(g) of the Constitution.

