

Rule 133 clears air around 'online gaming' taxation, prescribes formulas & clarifications

May 23, 2023

CBDT [notifies Rule 133](#) for computation of net winnings in online gaming; Rule 133 prescribes a formula for calculating net winnings for the purposes of taxability under the newly introduced Section 115BBJ; The Rule also prescribes formulas for TDS under Section 194BA as applicable at various stages viz., first withdrawal, subsequent withdrawals and year end; The Rule also clarifies the situations in which the net winnings shall be zero; Explanation 1 of the Rule 133 defines non-taxable deposit, taxable deposit and withdrawal while Explanation 2 clarifies on user account, payment in kind, multiple user accounts, inter-account transfer, and taxability of bonus, referral bonus & incentives etc., which was also explained in the [Guidelines](#) issued yesterday by the CBDT.

Rule 133(1) - Net winnings from online games for the purposes of Section 115BBJ

Net winnings = (A+D)-(B+C), where -

A = Aggregate amount withdrawn from the user account during the financial year;

B = Aggregate amount of non-taxable deposit made in the user account by the assessee during the FY;

C = Opening balance of the user account; and

D = Closing balance of the user account

Rule 133(2) - Net winnings comprised in the first withdrawal during the FY for the purposes of Section 194BA

Net winnings = A-(B+C), where -

A = Amount withdrawn from the user account;

B = Aggregate amount of non-taxable deposit made in the user account by the owner of such account during the FY, till the time of such withdrawal; and

C = Opening balance of the user account.

Rule 133(3) - Net winnings would be zero for sub-rule (2) if $(B+C) > \text{or} = A$

Rule 133(4) - Net winnings in subsequent withdrawals during the FY for the purposes of section 194BA

Net winnings = A-(B+C+E), where -

A = Aggregate amount withdrawn from the user account during FY till the time of subsequent withdrawal including the amount of such subsequent withdrawal;

B = Aggregate amount of non-taxable deposit made in the user account by the owner of such account during the FY, till the time of such subsequent withdrawal;

C = Opening balance of the user account; and

E = Net winnings comprised in the earlier withdrawal or withdrawals, if tax has been deducted as per section 194BA on winnings comprised in such earlier withdrawal or withdrawals

Rule 133(5) - Net winnings would be zero for sub-rule (4) if $(B+C+E) > \text{or} = A$

Rule 133(6) - Net winnings comprised in the user account at the end of the FY for the purposes of Section 194BA

A = Aggregate amount withdrawn from the user account during FY till the time of subsequent withdrawal including the amount of such subsequent withdrawal;

B = Aggregate amount of non-taxable deposit made in the user account by the owner of such account during the FY, till the time of such subsequent withdrawal;

C = Opening balance of the user account;

D = Closing balance of the user account; and

E= Net winnings comprised in the earlier withdrawal or withdrawals, if tax has been deducted as per section 194BA on winnings comprised in such earlier withdrawal or withdrawals

Explanation 1 to Rule 133

- “non-taxable deposit” means the amount deposited by the user in his user account and which is not taxable;
- “taxable deposit” means any amount deposited in the user account which is not a non-taxable deposit and includes any amount paid directly to the user not through the user account; and
- “withdrawal” means any amount withdrawn by the user from any user account.

Explanation 2 to Rule 133 clarifies the legal position on multiple user accounts, payments ‘in kind’, inter-account transfer, taxability of bonus or incentives and deemed taxation of deposits:

(a) user account shall include every registered account of the user, by whatever name called, and where any taxable deposit, non-taxable deposit or the winnings made by the user is credited and withdrawal by the user is debited.

(b) whenever there is payment to the user in kind or in cash, or partly in kind and partly in cash, which is not from the user account, the provisions of Rule 133 shall apply to calculate net winnings by deeming that the money equivalent to such payment has been deposited as taxable deposit in the user account and the equivalent amount has been withdrawn from the user account at the same time and shall accordingly be included in amount A.

(c) whenever there are multiple user accounts of the same user, each user account shall be considered for the purposes of calculating net winnings and the deposit, withdrawal or balance in the user account shall mean aggregate of deposit, withdrawal or balance in all user accounts.

(d) whenever there are multiple user accounts of the same user, inter-account transfer with respect to same online gaming intermediary, not be considered as withdrawal or deposit for the purposes of TDS under section 194BA.

(e) whenever there is taxable deposit in the form of bonus, referral bonus, incentives, promotional money or discount which can only be used for playing the online games and not for withdrawal or any other purposes, then it shall be ignored for the purposes of calculation of net winnings and shall not be included in amount B or amount C or amount D.

(f) whenever any bonus, referral bonus, incentives, promotional money or discount is not considered as part of amount B or amount C or amount D due to non-withdrawable nature but subsequently

recharacterised and allowed to be withdrawn, then the same shall be deemed as taxable deposit at the time of recharacterisation and it shall be deemed that the equivalent amount has been deposited in the user account at that time.