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# **FREEWHEELING FANTASY GAMING IN INDIA**

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## **ABSTRACT**

The paper offers an in-depth examination of the burgeoning domain of fantasy gaming in India, encompassing its multifaceted dimensions of legal, regulatory, and technological paradigms. Fantasy gaming, an online platform enabling users to assemble virtual teams of real-life athletes across diverse sports, operates on the premise of skill-based predictions of player performance, thereby diverging from traditional sports betting. Despite its meteoric rise catalyzed by increased smartphone penetration and internet accessibility, the industry contends with a fragmented legal framework due to varied state regulations and a lack of a centralized legislative edifice. Crucially, the Public Gambling Act, 1867, forms the bedrock of legal scrutiny concerning gambling and betting in India. The judiciary's pronouncement, notably the Supreme Court's assertion deeming fantasy gaming a game of skill, underscores the pivotal role of superior knowledge, judgment, and user attention in its operations. However, the absence of a unified regulatory framework has resulted in a patchwork of state-specific legislations, exemplified by outright bans in some states and regulated frameworks in others. Key judicial precedents, such as the cases of K.R. Lakshmanan v. State of Tamil Nadu and Varun Gumber v. Union Territory of Chandigarh, have delineated the criteria for distinguishing games of skill from chance, setting precedents that echo across subsequent legal deliberations. Moreover, the industry faces challenges pertaining to oppressive taxation, consumer protection, and responsible gaming, necessitating a cohesive national regulatory structure. In conclusion, while fantasy gaming thrives as a skill-based pursuit, its robust growth necessitates a comprehensive legal and regulatory overhaul, encompassing uniform classification, stringent consumer safeguards, ethical utilization of technology, and a judicious taxation framework to foster fair play and mitigate potential risks.

## **KEYWORDS**

Regulatory Ambiguity, Consumer Protection, Taxation Framework, AI-Powered Analytics, National Legal Standardization, Fantasy Gaming

## INTRODUCTION

Online gaming that allows users to create virtual teams of real life players in various sports is termed fantasy gaming. They also compete with other users based on the actual performance of those players. This trend has emerged as a popular industry in India. It is quite lucrative, with millions of users. Increasing smartphone penetration and availability of internet at lower prices are the main contributing factors in the growth story of this industry.<sup>1</sup> Fantasy gaming also comes across various legal challenges in India. The Public Gambling Act, 1867 is an important legislation as far as gambling is concerned. It governs gambling & betting in India. Although it prohibits public gambling as well as keeping of common gaming houses. Yet it exempts games of skill from its purview.<sup>2</sup> The Supreme Court held fantasy gaming to be a game of skill. It involves the exercise of superior knowledge, judgment, and attention of the user.<sup>3</sup> Since gambling and betting are state subjects; under the Constitution of India, different states enact their own laws on this matter.<sup>4</sup> This creates a patchwork of legal regimes that vary in their applicability. Assam, Odisha and Telangana have banned this altogether.<sup>5</sup> While Nagaland, Sikkim and West Bengal have regulated it under specific conditions.<sup>6</sup> The lack of a comprehensive legal framework is quite troublesome for the industry. Issues related to legal compliance are a major cause of concern.

### What is Online Fantasy Gaming?

Fantasy Gaming is a form of sports betting where one bets on an individual player performance rather than on the outcome of the game which makes it a game of skill. The winner is selected by a pre-determined points system based on a self-composed fictitious team of existing athletes from various sports like Kabaddi, Cricket, Football, Handball, Volleyball etc. The fantasy sports in

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<sup>1</sup> Rishabh Bhansali, *All You Need to Know about Fantasy Gaming? Why Is India Seeing a Rise in This Sector*, THE TIMES OF INDIA, <https://timesofindia.indiatimes.com/blogs/voices/all-you-need-to-know-about-fantasy-gaming-why-is-india-seeing-a-rise-in-this-sector/> (last visited Jan 3, 2024).

<sup>2</sup> Gambling in India, WIKIPEDIA (2023), [https://en.wikipedia.org/w/index.php?title=Gambling\\_in\\_India&oldid=1187276680](https://en.wikipedia.org/w/index.php?title=Gambling_in_India&oldid=1187276680) (last visited Jan 3, 2024).

<sup>3</sup> The Regulation of Fantasy Sports in India, THE TIMES OF INDIA, <https://timesofindia.indiatimes.com/readersblog/legal-shack/the-regulation-of-fantasy-sports-in-india-53547/> (last visited Jan 3, 2024).

<sup>4</sup> Global Legal Group, *International Comparative Legal Guides*, INTERNATIONAL COMPARATIVE LEGAL GUIDES INTERNATIONAL BUSINESS REPORTS, <https://iclg.com/practice-areas/gambling-laws-and-regulations/india> (last visited Jan 3, 2024).

<sup>5</sup> Poker Legality in India | Is Poker Legal in India Online?, POKERSPOT, <https://www.pokerspot.in/poker-legality-in-india/> (last visited Jan 3, 2024).

<sup>6</sup> Stewart-Jones et al. - 2016 - The International Comparative Legal Guide to Gamb.pdf, [https://www.nishithdesai.com/fileadmin/user\\_upload/pdfs/Research%20Articles/The\\_International\\_Comparative\\_Legal\\_Guide\\_to\\_Gambling\\_2016\\_Edition.pdf](https://www.nishithdesai.com/fileadmin/user_upload/pdfs/Research%20Articles/The_International_Comparative_Legal_Guide_to_Gambling_2016_Edition.pdf) (last visited Jan 3, 2024).

India came around two decades back by launching of “Super Selector Fantasy Game” by ESPN Sports in 2001 which completely changed the form of sports betting in India by creating a fantasy betting system fall half under game of skill and half part under game of luck/chance which stands still as a grey matter in India.<sup>7</sup>

In the current scenario, many unicorns like Dream11, Howzat, A23Rummy, My11circle, etc. have captured the Indian fantasy gaming market. While Dream11 has captured the 90 percent of the market share.<sup>8</sup> These Fantasy gaming applications offer the Gen X with thrill and a free dopamine rush by rewarding the users with some small rewards and at the same time creating a hope of winning larger sum of money. According to a report by KPMG and FIFS, the online fantasy sports industry in India grew by 31%. It is further projected to grow upto Rs 25,240 crore by FY27.<sup>9</sup>

## EVOLUTION OF FANTASY GAMING INDUSTRY IN INDIA

Fantasy gaming is not a novel concept. Its roots can be traced back in the traditional forms of sports fandom. Growth of technology has evolved fantasy gaming into a sophisticated industry. The history traces back to 1950s.<sup>10</sup> The first fantasy baseball league was created in USA.<sup>11</sup> It was created by a group of journalists and academics. Since then, it has expanded to cover various other sports attracting millions of users.

In India, the fantasy sports competitions started from the early 2000s.<sup>12</sup> It took almost a decade for this to gain popularity, largely driven by the availability of affordable smartphones, internet penetration, and the growth of different mobile application platforms. One of the earliest and most influential fantasy gaming platforms in India was the 'Super Selector' game launched by

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<sup>7</sup> ESPN Super Selector, WIKIPEDIA (2022), [https://en.wikipedia.org/w/index.php?title=ESPN\\_Super\\_Selector&oldid=1113769895](https://en.wikipedia.org/w/index.php?title=ESPN_Super_Selector&oldid=1113769895) (last visited Jan 3, 2024).

<sup>8</sup> The rise & rise of Dream11, and fantasy sports gaming in India - The Economic Times, <https://economictimes.indiatimes.com/small-biz/startups/features/the-rise-rise-of-dream11-and-fantasy-sports-gaming-in-india/articleshow/68544801.cms> (last visited Jan 3, 2024).

<sup>9</sup> Top 14 Indian Online Fantasy Game Startups | Fantasy Gaming, STARTUPTALKY (2023), <https://startuptalky.com/online-fantasy-gaming-startups-india/> (last visited Jan 3, 2024).

<sup>10</sup> Fantasy sport, WIKIPEDIA (2023), [https://en.wikipedia.org/w/index.php?title=Fantasy\\_sport&oldid=1165513902](https://en.wikipedia.org/w/index.php?title=Fantasy_sport&oldid=1165513902) (last visited Jan 3, 2024).

<sup>11</sup> Fantasy baseball, WIKIPEDIA (2023), [https://en.wikipedia.org/w/index.php?title=Fantasy\\_baseball&oldid=1171938679](https://en.wikipedia.org/w/index.php?title=Fantasy_baseball&oldid=1171938679) (last visited Jan 3, 2024).

<sup>12</sup> Conventus Law, *Online Fantasy Sports In India: A Shift Towards Uniform Legal Approach.*, CONVENTUS LAW (May 18, 2021), <https://conventuslaw.com/report/online-fantasy-sports-in-india-a-shift-towards/> (last visited Jan 3, 2024).

ESPN-Star Sports in 2001. It allowed users to create and manage virtual cricket teams. They could also compete with other users based on the actual performance of the players.<sup>13</sup> Former Indian cricketer Ravi Shastri hosted the same. The monthly winner used to get a chance to meet him. The game was a huge success. It was able to create a buzz among the cricket fans.

Indian Fantasy Gaming emergence or rise can be seen back to the time when IPL<sup>14</sup> was introduced in India. The emergence of this new league ensured an active engagement of public throughout the year in sports and while creating a state wise team to build a sense of competition among people to get more engagement in the fantasy gaming.<sup>15</sup> The current scenario in India is that many sporting events such as Pro Kabaddi, IPL, Big Bash League, Indian Super League and all the sporting events are tracked and Pool Competition is created to allure the public at large.<sup>16</sup> The fantasy gaming industry in India boomed and gained popularity in the covid 19 pandemic. Over the past five IPL seasons since 2019, fantasy gaming apps have seen a compound annual growth of 18% of cash users every year.<sup>17</sup>

## FACTORS CONTRIBUTING TO GROWTH OF ONLINE GAMING INDUSTRY

- i. **Covid 19 Pandemic**- Due to covid 19 restrictions, rapid technological improvements, and greater internet usage during covid times has significantly contributed to the growth of fantasy gaming in India. Due to lack of entertainment and restrictions on movement, people heavily relied on fantasy gaming as a leisure activity.<sup>18</sup>

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<sup>13</sup> Evolution of fantasy sports in India - a short timeline | G2G News, <https://g2g.news/fantasy-sports/evolution-of-fantasy-sports-in-india-a-short-timeline/> (last visited Jan 3, 2024).

<sup>14</sup> Indian Premiere League.

<sup>15</sup> Abhismita Sen, *A Comprehensive Report on the Status of Online Fantasy Gaming in India and Its Growth Strategy via Digital Assets, through the Case Study of Fanfight*, [https://www.academia.edu/43760271/A\\_comprehensive\\_report\\_on\\_the\\_status\\_of\\_online\\_fantasy\\_gaming\\_in\\_India\\_and\\_its\\_growth\\_strategy\\_via\\_digital\\_assets\\_through\\_the\\_case\\_study\\_of\\_Fanfight](https://www.academia.edu/43760271/A_comprehensive_report_on_the_status_of_online_fantasy_gaming_in_India_and_its_growth_strategy_via_digital_assets_through_the_case_study_of_Fanfight) (last visited Jan 3, 2024).

<sup>16</sup> Ayushi Bhatti, *The Evolution of Fantasy Sports In India: From Past to Present*, VOICE OF INDIAN SPORTS - KREEDON (2021), <https://www.kreedon.com/rise-of-fantasy-sports-in-india-e-sports-past-to-present-growth/> (last visited Jan 3, 2024).

<sup>17</sup> Gourab Das, *Fantasy Gaming Apps' Revenue Jump to Rs 2,800 Crore during IPL 2023 amid Debate of Chance and Skill*, THE ECONOMIC TIMES, Jul. 4, 2023, <https://economictimes.indiatimes.com/news/sports/fantasy-gaming-apps-revenue-jump-to-rs-2800-crore-from-ipl-2023-amid-debate-of-chance-and-skill/articleshow/101471442.cms> (last visited Jan 3, 2024).

<sup>18</sup> India Gaming Market Growth, Trends, COVID-19 Impact, and Forecast 2021 - 2026 - ResearchAndMarkets.com, (2021), <https://www.businesswire.com/news/home/20210913005644/en/India-Gaming-Market-Growth-Trends-COVID-19-Impact-and-Forecast-2021---2026---ResearchAndMarkets.com> (last visited Jan 4, 2024).

- ii. **Growth in Technology-** The growth of digital infrastructure and extensive penetration of technology has resulted in an easily accessible technology in the hands of Indian citizens which has further resulted in engagement of Indian users in fantasy games.<sup>19</sup>
- iii. **Advertisements and Promotions-** Due to heavy promotions and advertisements fantasy gaming can attract more players to their online platforms. Promotions on Indian jersey and other online platforms has been able to attract many participants by selling them dreams and hope to win bigger cash prizes in future.<sup>20</sup>
- iv. **Emergence of Sports League-** Due to the emergence of many sports league throughout the year has resulted in creating a bigger market for the online gaming platforms in India.<sup>21</sup>

## LEGAL AND REGULATORY FRAMEWORK IN INDIA

The regulatory framework of fantasy gaming in India is fragmented. There is no central legislation for its governance. Also there is authority that governs this industry at the national level. The Supreme Court of India held that fantasy gaming is a game of skill.<sup>22</sup> It involves the exercise of superior knowledge, judgment, and attention of the user. The laws throughout India vary in their scope, interpretation, as well as enforcement. The following are some of the key regulatory aspects of fantasy gaming in India:

### I. Legality of Fantasy Gaming in India

Fantasy Gaming applications are usually unregulated third-party applications which access the data of the user and collects various user documents for monitoring the outflow/inflow of money while collecting the digital documents such as PAN, Aadhaar Card of the app users.<sup>23</sup> As per the Article 19(1) of the Indian Constitution & the colonial Gambling Act, 1867; prohibits individuals and groups from engaging in “game of chances” but unreservedly allows skillbased games but the real question is that “is it a complete game of skill”? or does it still have some contingency or game of chance/luck involved in it.

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<sup>19</sup> fantasy sports industry: Fantasy gaming to grow at 30% CAGR till 2027, regulatory clarity on GST to help: Report - The Economic Times, <https://economictimes.indiatimes.com/tech/startups/indias-fantasy-sports-industry-to-reach-50-cr-users-by-fy27-report/articleshow/99588808.cms> (last visited Jan 4, 2024).

<sup>20</sup> Top 15 fantasy gaming apps in India spent over Rs 5,000 Cr on ads in FY22, <https://entrackr.com/2023/05/top-15-fantasy-gaming-apps-in-india-spent-over-rs-5000-cr-on-advertising-in-fy22/> (last visited Jan 4, 2024).

<sup>21</sup> Sumit Jha, *Major Trends to Reshape the Fantasy Sports Industry in 2022*, THE TIMES OF INDIA, <https://timesofindia.indiatimes.com/blogs/voices/major-trends-to-reshape-the-fantasy-sports-industry-in-2022/> (last visited Jan 4, 2024).

<sup>22</sup> The Regulation of Fantasy Sports in India, *supra* note 5.

<sup>23</sup> NEXGENO, *Online Fantasy Sports in India | Gaming Laws, Challenges & Regulations*, [HTTPS://WWW.AHLAWATASSOCIATES.COM](https://www.ahlawatassociates.com), <https://www.ahlawatassociates.com/blog/legality-of-fantasy-sports-in-india> (last visited Jan 4, 2024).

To dive deeper into this context, lottery is another example of luck or chance determining the winner. As per Section 30 of Indian Contract Act, 1872, agreements of wager are void and no one can resort to legal proceedings for the same. Similarly, Section 12 of the Gambling Act, 1867 states that a game of skill does not amount to gambling as the player with greater skill has a better chance of winning and luck has minimal role to play.

## II. Definition of Fantasy Gaming

There is no consistent definition of fantasy gaming in India. Different courts have adopted varied criterias. They classify the sport as game of skill/game of chance. In *K.R. Lakshmanan v. State of Tamil Nadu*<sup>24</sup>, the honorable Supreme Court came up with the test of predominance of skill over chance to determine the legality of a game. This was applied it to the game of horse racing. The honorable Supreme Court stated that a “Game of Skill” is one in which a player’s superior knowledge, training, attention, experience, and skill are what determines their success most. A game of skill is one in which the element of skill predominates over the element of chance. A game of chance is one in which the element of chance predominates over the element of skill. In *Gurdeep Singh Sachar v. Union of India & Ors.*<sup>25</sup>, the Bombay High Court followed the same test. The honourable High Court upheld the legality of Dream11. It was observed that it involved considerable skill, judgment and discretion. It was held that the result was not dependent on the outcome of the match. But based on the performance of individual players.

In the case of *Varun Gumber v. Union Territory of Chandigarh & Ors.*<sup>26</sup>, Punjab and Haryana High Court upheld the previous descision. That is, Dream11 was a game of skill and not a game of chance. The court ruled that the game was a legal activity and was protected under Article 19(1)(g) of the Indian Constitution.

However, in *Chandresh Sankhla v. State of Rajasthan*<sup>27</sup>, Rajasthan High Court took a different view. It was held that Dream11 was a game of chance and not a game of skill. The element of skill was negligible as it involved betting on uncertain events.

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<sup>24</sup> 1996 AIR 1153.

<sup>25</sup> 2019 (30) G.S.T.L. 441.

<sup>26</sup> CWP No. 7559/2017.

<sup>27</sup> D.B. Civil Writ Petition No. 6653/2019.

The Madras High Court, in the case of *D. Siluvai Venance v. State*<sup>28</sup>, also expressed doubts about the legality of fantasy gaming. It observed that it could amount to gambling if it involved stakes or money. Thus, there is a need for uniform classification of fantasy sports in India. This can certainly provide legal clarity to the users.

In 2023, Rajasthan High Court held that online gaming is not betting or gambling. The interim relief was granted to Myteam11. The court held that such gaming services are the games of skill. They are not games in nature of betting or gambling. The court also remarked that the issue of show cause notice to Myteam11 by the GST authorities, seeking to levy GST on the gaming services provided by it online, by treating the same as 'actionable claims', is an abuse of the process of law.<sup>29</sup>

### III. Consumer Protection and Responsible Gaming

Another important aspect of the regulatory framework is the protection of the interests of the consumers. The promotion of responsible gaming practices is also very important aspect. The industry is largely self regulated. FIFS<sup>30</sup> represents fantasy gaming operators in India. It issued a charter of self regulation containing certain principles. It involves guidelines relating to transparency, fairness, security, privacy, and ethics. The FIFS also has a grievance redressal mechanism.<sup>31</sup> Lately, the self-regulation by the FIFS is not enforceable. It does not have any legal recognition.<sup>32</sup>

### IV. Oppressive Taxation on Online Gaming

Imposing high GST on Online Fantasy Gaming is an unjustified & unreasonable concept. It would kill an industry that employs many people. The 50th GST Council decided to levy 28 percent tax on gross amount involved. For example, A contest is created for 10 people contributing Rs. 100 each, making the amount Rs. 1000, out of which 28 percent is deducted as GST along with 10 percent by service providing platform making the prize pool available as Rs. 620, out of that 620 Rupees further winnings of participants (V, W, X, Y) would be 220, 200, 145, 55 (Rupees) on

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<sup>28</sup> CrI.OP. (MD) No. 6568 of 2020 & CrI.MP.(MD) No. 3340 of 2020.

<sup>29</sup> Myteam11 Fantasy Sports Private Limited vs. Union of India D.B. Civil Writ Petition No. 1100/2023.

<sup>30</sup> The Federation of Indian Fantasy Sports.

<sup>31</sup> Fantasy Sports: Creating a virtuous cycle of sports development, <https://fifs.in/wp-content/uploads/2022/03/Fantasy-Sports-Industry-Report.pdf> (last visited Jan 4, 2024).

<sup>32</sup> Ganesh Makam, *Regulatory Landscape of Online Gaming in India: Challenges and Prospects*, (2023), <https://papers.ssrn.com/abstract=4484558> (last visited Jan 4, 2024).

which another 30 percent would be deducted as income tax making the amount available for the participants at 70 percent of what they won. Thus, the 50th GST Council decision to levy 28 percent tax is a way to create a two-edged sword which will cut this industry into pieces, hence, leaving out no reward except the top three scorers in a contest, the other participants except the first three are guaranteed to lose.

The more astonishing part is that nowhere in the world, tax is deducted on the entire price pool amount rather tax is deducted on the service charge or the platform fee. There is a serious weak spot of our taxation system due to its primary focus on revenue maximisation and thinking less towards revenue optimization, our taxing regime system has always focused on putting more burden on the shoulders of tax payers and collecting hefty amounts of tax rather than collecting small tax amount from all the industries and people in the country. If the decision taken by the 50th GST Council is implemented the online gaming industry will suffer huge losses and in future can disrupt its potential growth which can further result in loss of employment with no subsequent increase in the revenue.<sup>33</sup>

It is equally important for the policymakers to consider the possible consequences of the oppressive rates of taxation as increased tax would result in loss in an industry, thus, in future, will account for loss in taxes rather the approach should be lesser the tax more the growth and employment, which will subsequently increase the amount of tax collected.

## ROLE OF AI IN FANTASY GAMING

Computer systems or algorithms that can carry out certain tasks demanding human intellect is said to be AI (artificial intelligence).<sup>34</sup> It's an interdisciplinary field with convergence of varied fields of study. ML<sup>35</sup>, deep learning, NLP<sup>36</sup>, computer vision, speech recognition, robotics, expert systems and artificial neural networks all are covered under the scope of AI. It provides various tools and features that improve the user engagement, analysis and satisfaction:

- a. **AI-powered player analysis:** One of the key aspects of fantasy gaming is the analysis of player data. AI has revolutionized this process. It enables the fantasy gaming platforms to

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<sup>33</sup> Impact of 28% GST on Online Gaming in India, <https://taxguru.in/goods-and-service-tax/impact-28-percent-gst-online-gaming-india.html> (last visited Jan 4, 2024).

<sup>34</sup>NITI Aayog, Responsible AI for All, 2022, [https://www.niti.gov.in/sites/default/files/2022-11/Ai\\_for\\_All\\_2022\\_02112022\\_0.pdf](https://www.niti.gov.in/sites/default/files/2022-11/Ai_for_All_2022_02112022_0.pdf) (last visited Dec 25, 2023).

<sup>35</sup>Machine Learning.

<sup>36</sup>Natural Language Processing.

process massive amounts of data. AI algorithms can provide customized player profiles including personalised metrics. AI can also make predictions about player performance. It can factor in certain variables for the same. These predictions can help the users to optimize their chances of winning.<sup>37</sup> For instance, Dream11 uses AI to provide with player suggestions.<sup>38</sup> Similarly, FanDuel, uses AI to generate player projections.<sup>39</sup>

- b. **AI powered game features:** AI has enhanced the fantasy gaming experience by catering the diverse needs of the users. AI can help the fantasy gaming platforms to create engaging game formats. AI can also help the fantasy gaming platforms to provide certain features, such as chatbot integration.<sup>40</sup> For example, MyTeam11 uses AI to provide users with personalized recommendations.<sup>41</sup>
- c. **AI powered user experience:** AI has improved the user experience by adpting to the preferences of the individual. AI can help the platforms in data collection to further customize the user experience. AI can also help the fantasy gaming platforms to improve quality assurance by adopting AI sentiment analysis techniques.<sup>42</sup> For instance, MPL uses AI to provide users with personalized content.

## MOOT QUESTION

Should the State, tax us on our winnings due to chance or should it tax us on the winnings of our skill alone?

This questioned appeared in the Karnataka High Court's decision in Gameskraft Technologies Limited v. Directorate General of Goods Service Tax Intelligence, in this case Gameskraft is an online intermediary company, which runs platforms that enable its users to play online fantasy games against users. Gameskraft received Rs. 21,000 crore GST notice which was challenged by giving a central argument that the Gameskraft is only a service provider and the prize pool held

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<sup>37</sup> How AI Can Make Fantasy Football Even More Fun | Built In, <https://builtin.com/consumer-tech/artificial-intelligence-fantasy-football> (last visited Jan 4, 2024).

<sup>38</sup> Madhav Goswami, *Dream11 Team Predictor with Python and Machine Learning*, ANALYTICS VIDHYA (Jan. 22, 2021), <https://medium.com/analytics-vidhya/dream11-team-predictor-with-python-and-machine-learning-f0dfce1489eb> (last visited Jan 4, 2024).

<sup>39</sup> Daily Fantasy Fuel, *Advanced NBA Lineup Optimizer for DraftKings and Fanduel*, DAILY FANTASY FUEL (2024), <https://www.dailyfantasyfuel.com> (last visited Jan 4, 2024).

<sup>40</sup> 🎮 AI in Gaming | 5 Biggest Innovations (+40 AI Games) | Engati, <https://www.engati.com/blog/ai-in-gaming> (last visited Jan 4, 2024).

<sup>41</sup> Play Fantasy Cricket - Download Fantasy Sports App - MyTeam11, <https://www.myteam11.com/> (last visited Jan 4, 2024).

<sup>42</sup> How Artificial Intelligence Can Empower The Future Of The Gaming Industry, <https://www.forbes.com/sites/forbestechcouncil/2022/07/13/how-artificial-intelligence-can-empower-the-future-of-the-gaming-industry/> (last visited Jan 4, 2024).

by Gameskraft is only in trust and all of it is distributed after deducting the service providers fee for which they are paying the tax. It is a settled law that the games of skill may not be taxed while game of chances may be taxed, on this Justice Kumar in the Gameskraft case held that online rummy and other games played on the platform provided by the company were not taxable as “betting and gambling” under the GST Act and if the intimation notice of Rs. 21,000 crore was sent, then this means that lottery, betting, and gambling can be taxed under the CGST. The Karnataka High Court placed more reliance on Supreme Court judgements and held that Entry 6 Schedule III of CGST has interpreted to mean games of chances and not game of skill so it cannot be taxed for the same. The matter is currently been challenged by the respondents in the Supreme Court of India. The Supreme Court decision on game of skill and game of chance will shape the future of taxation in India.

## **CRITISICM**

The prevailing trend of fantasy gaming has created more Reward dependence of the youth. In the current scenario, the industries are selling dreams by alluring the public at large to participate in contests to win bigger rewards. Due to unclear legal status especially those involving real money transactions, some states consider online fantasy gaming to fall under game of skill while some states ban it, making it fall under game of luck. Online fantasy gaming are addictive in nature like gambling, once the user wins a small amount of money the user gets involved in the vicious cycle created by online fantasy application where the user plays more to win more but ends up losing all, thus, making the user vulnerable to financial losses. The most concerning issue is of underage participations and easy accessibility of these online gaming application which can expose the underage population to a greater financial risk and can further addict the child to other illegal activities such as gambling in their foundational age.

## **CONCLUSION AND RECOMMENDATIONS**

Fantasy gaming is a booming and promising industry in India. It offers various opportunities for the sports industry and the economy. However, fantasy gaming has its own issues such as the regulatory uncertainty, responsible gaming issues, compliance issues, and social implications. The following recommendations are suggested to improve upon these issues:

- a) A uniform legal framework at national level
- b) A clear classification of fantasy gaming or fantasy sports
- c) A robust taxation and compliance regime

- d) An effective consumer protection mechanism
- e) Ethical use of data, artificial intelligence and real money in fantasy gaming

In conclusion, fantasy gaming has the potential to revolutionize the sports fandom to create growth for the fantasy gaming industry. As the title suggests, the present scenario is a freewheeling gaming industry which needs to be checked and a proper legislation should come into play to prevent financial frauds, underage participations, oppressive taxing, and a situation of ambiguity among participants, regulators, and operators. The fantasy gaming is not regarded as gambling in India but rather a skill based game which needs to be regulated and monitored in huge demographic country like India to prevent financial frauds and to ensure fair play.

