

20th SURANA & SURANA NATIONAL CORPORATE LAW MOOT COURT COMPETITION, 2022 -23

BEFORE THE HON'BLE HIGH COURT OF KARNATAKA

WRIT PETITION No. 1001 to 1004 of 2023

Article 226 of the Indian Constitution

IN THE MATTER BETWEEN:

MIDAS ONLINE GAMES INDIA PVT. LTD

REP BY ITS RESOLUTION PROFESSIONAL BENGALURU.....
PETITIONER

VERSUS

DIRECTORATE GENERAL OF GST INTELLIGENCE BENGALURU
RESPONDENT

Most Respectfully Submitted

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(Article).

LIST OF ABBREVIATIONS

Abbreviations	Meaning
AA	Adjudicating Authority
AIR	All Indian Reporter
Art	Articles
BLRC	Bankruptcy Law Reforms Committee
COC	Committee of Creditors
CGST	Central Goods and Services Tax
Code	Insolvency and Bankruptcy Code, 2016
CIRP	Corporate Insolvency Resolution Process
Govt.	Government
GST	Goods and Services Tax
HC	High Court
Hon'ble	Honourable
IBBI	Insolvency and Bankruptcy Board of India
IBC	Insolvency and bankruptcy Code, 2016
IP	Insolvency Professional
IRP	Interim Insolvency Professional
NBI	National Bank of India
NCLT	National Company Law Tribunal
NCLAT	National Company Appellate Tribunal
Ors.	Others
RP	Resolution Professional

SC	Supreme Court
SCC	Supreme Court Cases
SCN	SHOW CAUSE NOTICE
SCR	Supreme Court Reporter
Sec.	Section
TOPA	Transfer of Property Act
V./Vs.	Versus
WP	Writ Petition

STATEMENT OF JURISDICTION

This Hon'ble High Court of Karnataka has the jurisdiction to try and dispose of the instant matter under Article 226 of the Constitution of India 1949, which states that

“(1) Notwithstanding anything in Article 32 every High Court shall have powers, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibitions, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose

(2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories

(3) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceedings relating to, a petition under clause (1), without

(a) furnishing to such party copies of such petition and all documents in support of the plea for such interim order; and

(b) giving such party an opportunity of being heard, makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from

the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the aid next day, stand vacated

(4) The power conferred on a High Court by this article shall not be in derogation of the power conferred on the Supreme Court by clause (2) of Article 32”

STATEMENT OF FACTS

1. Midas Online Games India Pvt Ltd, a Bengaluru-based online betting game company, had borrowed INR 5,000 crores from National Bank of India between July 2017 and August 2022.
2. The company's revenue was around INR 5,000 crores each year, and it paid taxes on admission fees only as it believed that the pooling fees were not liable to be taxed. However, on April 1, 2022, the GST department issued a Show Cause Notice asking the company to pay 28% tax on the entire consideration, including applicable interest and penalty.
3. A dispute arose concerning the classification of games and the valuation issue. Meanwhile, a software company filed an application before the National Company Law Tribunal (NCLT) to declare Midas company insolvent and to initiate Corporate Insolvency Resolution Process (CIRP).
4. On October 6, 2022, the department-initiated recovery proceedings and directed NBI to freeze all bank accounts of the company, creating a charge on the account. NCLT orders pronounced its orders against the company, directing it to initiate CIRP by appointing an Interim Resolution Professional (IRP).
5. On October 26, 2022, the Committee of Creditors (COC) constituted by IRP had its first meeting and passed two resolutions. One, to appoint IRP as Resolution Professional (RP) and two, immediately file writ petitions before Hon'ble Karnataka High Court challenging the orders passed by the GST department.

STATEMENT OF ISSUES

I.

WHETHER THE PETITION FILED BY THE PETITIONER IS MAINTANABLE?

II.

WHETHER THE GST IS PAYABLE ON THE 'ENTIRE CONSIDERATION'?

III

WHETHER THE GST DEPARTMENT BE TREATED AS A 'SECURED CREDITOR' TO HAVE PRECEDENCE OVER COMPANY'S BANK ACCOUNT?

SUMMARY OF ARGUMENTS

WHETHER THE GST IS PAYABLE ON THE ‘ENTIRE CONSIDERATION’?

The respondent humbly submits before the Karnataka High Court that the GST is payable on the entire consideration. The respondent while supporting the submission puts forward that the games hosted by the company are game of chance and the actionable claim is taxable amount in case where the games fall under the category of game of chance, as per the provisions of GST Act. The games hosted by the petitioner are activities of gambling, betting and lottery, liable to be taxed on entire consideration.

The respondent also questions the maintainability of the writ petition by petitioner and denies the allegations by petitioner of the SCNs and demand order issued by the Department to the company of being outrightly arbitrary and vague. Therefore, it is requested before the Hon’ble High Court to quash and set aside the writ petitioners filed by the petitioner.

WHETHER THE GST DEPARTMENT BE TREATED AS A ‘SECURED CREDITOR’ TO HAVE PRECEDENCE OVER COMPANY’S BANK ACCOUNT?

The petitioner humbly submits that GST department has be treated as a secured creditor to have precedence over company’s bank account. The petitioner in supporting its submission presents that the Department is a secured creditor as per the relevant provisions and sections of Insolvency and Bankruptcy Code, 2016. The respondent also advances judicial precedent to justify the legality of the orders and attachments, thereby the department to be treated as secured creditor no not to be sent empty handed during insolvency and liquidation process. Therefore, the respondent requests the Hon’ble High Court to declare the GST Department to be a secured creditor over company’s bank account.

ARGUMENTS ADVANCED

I.WHETHER THE PETITION FILED BY THE PETITIONER IS MAINTANABLE?

1. The writ petition filed by Midas Online Gaming Company represented by its Resolution Professional before Karnataka High Court challenging the order and recovery proceedings initiated by GST Department deserves to be quashed as it is not maintainable before the court of law. The show cause notices (SCN) and statement of the company for financial year 2017-18, 2018-19, 2019-20, 2020-21 asking the company to show cause as to why it should not be taxed at the rate of 28% on the entire consideration along with applicable interest and an equivalent penalty of 28%, was issued by GST department to the company on 01.04.2022.
2. As evident from the facts the demand notice and the SCNs sent to the company under section 73(2) of the CGST ACT 2017-*“The proper officer shall issue the notice under sub-section (1) at least three months prior to the time limit specified in sub-section (10)¹ for issuance of order.”* 73(3)-*“Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.”* Whereas, sub-section (1) of the CGST ACT 2017 states that a notice shall be issued on the entity chargeable with tax which has not been paid or short paid in case of reasons other than fraud, wilful-misstatement or suppression of

¹Section 73 (10) of the CGST Act 2017 : *The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund.*

facts to evade tax, requiring him to show cause as to why he should not pay the amount specified in the notice along with the interest payable and penalty leviable and sub-section (10) of the CGST Act specifies **to issue order within 3 years from the due date for furnishing annual return for the financial year**. Section 74(2) of the CGST Act 2017-“*The proper officer shall issue the notice under sub-section (1) at least six months prior to the time limit specified in sub-section (10) for issuance of order.*”

²Where sub-section (1) states that a notice shall be issued in case of fraud, wilful-misstatement or suppression of facts to evade tax, on the entity chargeable with tax which has not been paid or short paid, requiring him to show cause as to why he should not pay the amount specified in the notice along with the interest payable and penalty leviable and sub-section (10) specifies **to issue order within 5 years from the due date for furnishing annual return for the financial year**.

3. In the present case the notice was served to the company in April 2022 under section 74(2) of the CGST Act for FY 2017-18, within 5 years' time from the due date for furnishing annual return for the financial return and under section 73(2) of the CGST Act 2017 for FY 2018-19 3 months prior to 3 years and under section 73(3) of the CGST Act 2017 for FY 2019-20 and FY 2020-21 by proper officer including details of the tax unpaid or short paid on the company chargeable with tax of 28% on entire consideration.
4. There were divergent views of the department and the company on various aspects leading to conflict and disputed on various spectrums including classification issue, valuation issue and whether the online games were game of chance or game of skill.

² Section 74(10) of the CGST Act 2017 : *The proper officer shall issue the order under sub-section (9) within a period of five years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund.*

the department had given sufficient time to reply and several patient hearings to the company on the SCNs for all four years and reserved its order on 30.09.2022. It is therefore pertinent to note that **no principles of natural justice were violated** as the company was provided with **the proper reason for the issuing of show cause notices** and was also **given fair and reasonable opportunity of being heard**. Moreover, the department cannot be said to have done the procedure in hurried and haphazard manner as the orders were reserved in the month of September while having issuing the demand notice and show cause notices in the month of April i.e. **a just and reasonable period of 5 months in between**.

5. The demand notices issued under section 73 and 74 of the CGST Act,2017 are submitted to be valid as the company has time and again, **intentionally, and fraudulently suppressed the facts in order to evade tax**. The company has intentionally shown **all the gaming activities being hosted on its platform to be game of skill, instead of game of chance**. Whereas, the games played by players, hosted by the company substantially fall within the category of gambling. The company suppresses the relevant facts and wilfully mistakes all its games to be game of skill so to evade tax. Because, the business of game of skill attracts 18% GST only on the admission fees whereas, the games of chance including gambling, betting and lottery attract 28% GST on the entire consideration. The company has intentionally misstated the games hosted by it to be games of skill and suppressed that they are in fact, game of chance, in order to evade tax on entire consideration. The games hosted by Midas do not fall under the exemption of gambling, betting or lottery. The tax, interest and the penalty is **tenable and justifiable as per the law**. The demand notice and show cause notices issued are thus, within statutory provisions and principles of law.

6. Moreover, there was a **genuine fear** that the company could have only around INR 5,000 to 6,000 crores in its only bank account with **NBI since the revenues earned over the years were aggressively spent** on high-profile advertisements, extravagant salaries to its top and mid-level employees, swanky lease properties, investments in modern software and technologies and other administrative expenses as the company was swiftly expanding its presence in other states of the country in accordance with respective state laws. In order to recover the appropriate amount from the company the department passed orders and served it to the company and hence there is no question of unreasonably hurried and haphazard manner arising. Therefore, it is humbly submitted before the court of law that the department duly abided by law and its principles and hence the demand order was just, fair and reasonable. The petitioners claim of the notices being arbitrary does not stand.

II.WHETHER GST IS PAYABLE ON THE ENTIRE CONSIDERATION?

7. **Actionable claim is not exempted to be taxed in case of gambling, betting, and lottery.** Midas Online Games India Pvt. Ltd. Is an online gaming platform, having various games being played including lottery, horse racing, poker, rummy, fantasy cricket. A player using the platform executes the payment in two monetary transactions. In the first transaction, the person making payment as admission fees is engaged in the game as a player. In the second transaction, the payment is the pooling fees, which the player makes to engage himself/herself in gambling by betting on outcome of a game. For the second type of transaction, it is well settled that the claim is called 'actionable claim' meaning of claim of any debt, and is exempted from GST but which if recognized to be arising out of gambling, betting or lottery does not qualify to become either goods or services. Hence, it is submitted that **the company is involved in the**

sale of actionable claims and not in the provisions of services, subject to payment of GST.

Entry 6 to Schedule III of the Central Goods and Services Tax Act, 2017 (“CGST Act, 2017”) provides that actionable claims other than lottery, betting and gambling are outside the purview of taxation-

“SCHEDULE III

ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES

8. GST is leviable on the activity of supply of goods and services. The term services include all kinds of activities ranging from sale, transfer, barter, exchange, to license, lease, disposal, etc. Online gaming and gambling attract different rates of taxation on different type of considerations. **While service relating to betting and gambling attract 28% of GST on the entire consideration the online games qualifying as games of skill attract 18% GST on the partial consideration.** In the present case, amounts staked in online gaming or gambling qualify as ‘actionable claim’, which falls under the category of supply of goods and services.
9. The company makes profits and gains out of the amount that is being paid by players on the gaming platform. The tax attracted is hence the rate of tax on services relating to gambling, under the taxing schedule pertaining to goods, actionable claims in the form of chance to win in betting, gambling or horse racing in race club attracts 28% GST. As regards to the valuation of such actionable claims, rule 31A of CGST Rules, 2017 provides that the - *“Rule31A. (1) Notwithstanding anything contained in the provisions of this Chapter, the value in respect of supplies specified below shall be determined in the manner provided hereinafter. (2) The value of supply of lottery shall be deemed to be 100/128 of the face value of ticket or of the price as notified in the Official Gazette*

by the Organizing State, whichever is higher. (3) Value of supply of actionable claims in the form of chance to win in betting, gambling or horse racing in race club shall be 100% of the face value of the bet to the amount paid into the totalisator.” On reading the above rule it is clear that it is applicable on four types of actionable claim- i.e., lottery, betting, gambling and horse racing. It is submitted that the company attracts profit from each game that is played on its platform. **The company is engaged in the collection and dispensation of funds collected on the platform and not as a mere facilitator.** Therefore, the company which carries out the practice in of the name of facilitating betting is liable to be taxed on the entire consideration and not on the revenue accrued to the company.

In the case of *Shri K. L. Mansukhani v. Senior Inspector & Ors*³, it is stated that-

“a practice or act of gambling. An agreement between two or more persons to play together at a game of chance for a stake or wager which is to become the property of the winner, and to which all contribute. The elements of gaming are the presence of price or consideration, chance and prize or reward”. Betting or Gambling in Finance Act, 1994 as contained in the definition under Section 65-B(15)- *“Section 65-B. Interpretations: (15) Betting or gambling means putting on stake something of value, particularly money, with consciousness of risk and hope of gain on the outcome of a game or a contest, whose result may be determined by chance or accident, or on the likelihood of anything occurring or not occurring.”* Applying these principles to the facts of the present case, there is merit in saying that the games on the platform of Midas Company qualify to be called as betting, gambling and lottery. Therefore, it is submitted in conclusion that the transactions of GST, except for the claims of lottery, gambling and betting, in context of the games being played on the online platform of Midas do not attract

³*Shri K. L. Mansukhani v. Senior Inspector & Ors 1999 SCC OnLine Bom 843*

GST on the entire consideration. However, in the present scenario of the case it is submitted that the actionable claim because of its nature of games attracts GST on entire consideration.

10. **Games of chance attract GST on actionable claim as well.** A “game of skill” is based mainly on the mental or physical level of expertise of a player, rather than a chance. Whereas, a "game of chance" is primarily determined by a random element of any kind. Although, even when talent is used in games of chance, success is still mostly determined by chance. Games that rely on chance include card games, roulette, dice games, and even picking a numbered ball. It is important to remember that players in this **situation have no influence over the outcome.** However, it is settled in law that the nature of a game being a game of skill or a game of chance purely depends upon the factual aspect differing in each case. The decision of the Hon'ble Division Bench of the court, on which the petitioner has relied upon in the case before Karnataka High Court All India Gaming Federation has been challenged and is pending adjudication before the Apex Court. Apart from the fact that the same issue arising out of the Madras High Court (*All India Gaming Federation v State of Tamil Nadu and another*⁴) and Bombay High Court are also pending before the Apex Court, who is seized of the said issue and consequently, no reliance can be placed upon the said decision by the petitioner. The issue of online gaming being game of chance or a game of skill in the context of GST is also pending adjudication before the Bombay High Court and since, no finality has been reached on this issue, there is no merit in the contention of the petitioner.

⁴ All India Gaming Federation v State of Tamil Nadu and another⁴ WP No. 29911 of 2022

11. The Courts have, from time to time, weighed skill and chance carefully in each game to determine the predominance of one over the other and decide whether betting in such games would amount to gambling. It has been held in *Manoranjithan Manamyil Mandyam v State of Tamil Nadu*⁵ (2015) that whether a game is one of chance or skill is a question of fact to be decided on the facts and circumstances of each case. And in the present case whether the games played on the platform of Midas Company are a game of skill or game of chance is a factual assessment. It has argued that **a game constitutes a ‘game of skill ’only when the success depends on the skill of the player**. In the present case, the company Midas does not attempt to take into consideration skills of the player and assigns a table solely based on the stakes involved. In short, the arrangement is done based on the amount of fees paid by the players. Therefore, it is undisputed that the profit of the company is directly proportional to the amount of stakes involved in the game. Consequently, it is a game of chance presumption of the petitioner is fundamentally flawed because it evaluates the skills vis-à-vis the amount staked by a player and not on how well a particular player can play the game.

12. Even if we assume that it is **a game of skill, playing with stakes makes it ‘betting’**.

The Supreme Court, in *M.J. Sivani v. State of Karnataka*⁶ stated that the elements of gaming are the presence of prizes or consideration, and gaming involved playing of any game, whether of skill or chance, for money or money’s worth. In the context of games

⁵ *Manoranjithan Manamyil Mandyam v State of Tamil Nadu*⁵ (2015) AIR 2005 Mad 261

⁶ *M.J. Sivani v. State of Karnataka*: MANU/SC/0804/1995

like poker, etc., the court noted that there was no scope for using one's skill to arrive at a desired result, as the electronic machines on which these games were played could be tampered with resulting in the chances of winning becoming completely unrelated to the skill of the player. Considering, the reasoning put forth, it can be concluded that the games being played by the players on the platform of Midas Company are games of chance and are liable to pay GST on the entire consideration.

WHETHER THE DEPARTMENT CAN BE TREATED AS A SECURED CREDITOR TO HAVE PRECEDENCE OVER COMPANY'S BANK ACCOUNT?

13. Midas Online Gaming Company is a company incorporated under the companies act, 2013. It is engaged in business of hosting of online betting games and as per section 2(a) of the Insolvency and Bankruptcy Code, 2016, the provisions of IBC shall apply to *“The provisions of this Code shall apply to—(a) any company incorporated under the Companies Act, 2013 or under any previous company law;”* therefore, it is clear that all sections of GST Act shall apply to the company, in relation to their insolvency, liquidation, etc. In the present case, the company is a **corporate debtor** as per the definition in IBC under section 3(8)- *“corporate debtor means a corporate person who owes a debt to any person;”* because, the **company is indebted** and there is recovery proceeding initiated by the state against it, to realize its statutory dues. The IBC, 2016 defines secured creditor *under section 3(30) which states that any creditor in favour of whom security interest is created.* Security interest as per its definition under section

3(31)⁷ includes charge as one of its arrangements as security against payment. The close reading of section 3(30) of the IBC brings us to submit that the section does not exclude the **government or government authorities to fall under the category of secured creditor**. The term secure creditor as defined in the code is comprehensive and wide enough to cover all types of security interests namely, the right, title, interest or claim to property, created in favour of, or provided for a **secured creditor by a transaction**, which secure payment or performance of an obligation and includes mortgage, charge, hypothecation, assignment and encumbrance or any other agreement or arrangement securing payment or performance of any obligation of any person. The provision of the sections has to read as **a whole and not in curtailed manner**. The interpretation is to be done in such a manner that no statutory provisions are disregarded.

14. It is submitted that the charge was created on company under section 82 of IBC states that- *“Tax to be first charge on property.— Notwithstanding anything to the contrary contained in any law for the time being in force, save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, any amount payable by a taxable person or any other person on account of tax, interest or penalty which he is liable to pay to the Government shall be a first charge on the property of such taxable person or such person.”* In view of statutory charge in terms of section 82 stated above is thus called statutory charge as it has been created by the operation of law. Hence, the claim of the

⁷ Section 3(31) of the IBC define "security interest" means right, title or interest or a claim to property, created in favour of, or provided for a secured creditor by a transaction which secures payment or performance of an obligation and includes mortgage, charge, hypothecation, assignment and encumbrance or any other agreement or arrangement securing payment or performance of any obligation of any person: Provided that security interest shall not include a performance guarantee;

department squarely falls within the definition of ‘security interest’ under section 3(31) and the GST department hence becomes secured creditor under section 3 (30) of Insolvency and Bankruptcy Code, 2016.

15. The Hon’ble Supreme Court in its landmark judgement in the case of *State Tax officer v. Rainbow Papers Limited*⁸ had observed in paragraph 57 that- “section 3(30) of the IBC defines secured creditor to mean that any creditor in whose favour a security charge has been created. Such security can be created by **operation of law**. The definition of secured creditor in the IBC **does not exclude government or governmental authority**” consequently the apex court has recognized the GVAT Tax Authority as a secured creditor. The facts of the above-mentioned case very well match the facts of our present case. The Supreme Court had held that the tax department under section 48 of GVAT Act had created **statutory charge, falls within the definition of secured interest** under section 3(31) of IBC and the tax authority was recognised to be a secured creditor as the statutory charge was created by operation of law. Accordingly, in our present case the GST Department can be treated as a secured creditor as it has created security over company’s bank account in form of statutory charge as per section 82. Abiding by the principle laid down in the judgement of state tax officer, reading and interpreting the provisions of IBC broadly with open mind it is advanced that, GST department falls within the ambit of being a secured creditor as per the provisions of law under section 3(30) read with section 3(31) of IBC.

Whether the charge created on the property be created on the movable property?

16. The immediate question that arises is whether the charge that is created on the property be created on movable property i.e., bank account as is there in the present case. The

⁸*State Tax officer v. Rainbow Papers Limited* AIR2022SC4141

charge has been defined under section 3(4) of IBC which states- "*charge means an interest or lien created on the **property** or assets of any person or any of its undertakings or both, as the case may be, as security and includes a mortgage*". The definition of the term property is also found in section 3(27) of IBC which states- "*property includes money, goods, actionable claims, land and every description of property situated in India or outside India and every description of interest including present or future or vested or contingent interest arising out of, or incidental to, property.*" The definition of the word property makes it clear and indisputable that **the charge can be created on movable as well as immovable property**. Therefore, it is humbly submitted before the Hon'ble High Court that the department is a valid secured creditor to have precedence over company's bank account.

IV.WHETHER THE CLAIM FILED BY NBI LEGALLY VALID?

17. The NCLT had pronounced its orders on 06.10.2022 on the application filed against the company in admitting the application of the software company and directed to initiate the Corporate Insolvency Resolution Process (CIRP) and appointed the Interim Resolution Professional thereby. The IRP made public announcement calling for claims from the respective creditors. The GST department accordingly filed its claim under Form B as per the code. **Submission of Form B is pre-requisite for claiming any debt due from Corporate Debtor to an operational creditor**. The GST department being an operational creditor having created security interest over company's bank account, rightly filed its claim. However, NBI also filed its claim on the same day as secured creditor in Form B, while the bank never qualifies to be falling under the category of secured creditors. There is **no factual statement stating about the security interest created by the bank**. Thereupon, there was no security interest created by the

bank. A entity cannot be treated as a secured creditor without having created any security interest as per section 3(30) and 3(31) of IBC.

18. The NBI was the largest financial creditor and had majority claim of at least 90% on the entire 'financial debt' of the company. A financial creditor is defined under section 5(7) of the IBC as "*a person to whom a financial debt is owed, including a person to whom such debt has been legitimately assigned or transferred.*" read with section 5(8) of the IBC which defines financial debt as- "*a debt together with interest, if any, that is distributed against the consideration for time worth of money*" clarifies that the **NBI is a financial creditor** to the company as the money is borrowed by the company from NBI against the interest of payment. The **financial creditor must file for their claims in Form CIRP under IBC**. Therefore, it is submitted that the claims filed by the bank are invalid under Form B of CIRP under IBC; consequently, the bank cannot be treated as secured creditor to have precedence over the GST department.

PRAYER

Wherefore in light of the facts stated, issues raised, arguments advanced and authorities cited, the counsel for Directorate General of GST Intelligence, Bengaluru, most respectfully prays before the Hon'ble Karnataka High Court that it may be pleased to adjudge and declare that:

I. That the demand order and show cause notices are valid and legal.

II. That the games hosted by petitioner are games of chance.

III. That the company is entitled to pay tax entire consideration.

IV. That the GST department will have precedence over company's bank account as secured creditor.

AND/OR

Pass any other order, direction, or relief that this Hon'ble Court may deem fit in the interest of justice, equity and god conscience.

And for this act of kindness, the petitioner shall forever to duty bound.

Sd/-

Counsel of behalf of respondent.