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Sub: Legal Opinion for the game "Stop-Slot Based Skilled Games"

The Querist:

AvatarLife

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AvatarLife:

We understand that AvatarLife, a virtual world where any person can create an account, customize a character in the world and engage in activities provided by the platform such as building a virtual house, visiting different worlds inside of AvatarLife. One of such activities include gaming in the virtual skill gaming parlor which hosts a plethora of games and few of such are considered illegal/prohibited/banned in certain countries and regulated in few. It is understood that in some, the player will be playing against the House and in the rest, against a player. Further, in order to participate in the games, the player needs AV coins (a virtual coin where 1 dollar = 250 AV Coins). The player subscribes to the AV coins by converting real money and using it on activities across the virtual world. The player is free to withdraw the amount as currency on demand.

The Query:

"Whether AvatarLife can legally host Wheel/Reel Based Games which purely involves the wheel spinning and stopping on a number similar to Skilled Stop Slot Machines, Skilled Games with Reels that spin and are stopped by the



players, Prize Wheels, etc? What are the restrictions that are imposed on a gaming platform that hosts such games?”

We have comprehensively analysed the laws surrounding the game as given below:

Introduction:

Online gaming in India is subject to a complex web of laws and regulations, both at the Central and State levels since the country is beginning to adjust to the varied dynamics of the rapid internet penetration. The laws are not yet rigid, and there exists no act that fits all.

In this legal opinion, the laws of the country are comprehensively analysed to capture the legal landscape surrounding online gaming in India, with specific focus on the game **“Stop-Slot Based Skilled Games”** in AvatarLife Platform, and the compliances that are required for its establishment and unhindered sustenance in the country.

Wheel/Reel Based Games are frowned upon in India due to various cultural, religious and legal factors. Gambling is viewed as a morally corrupt activity that leads to addiction, financial ruin, and social unrest due to factors of luck and uncertainty. The British colonial law ‘The Public Gambling Act’ of 1867, which is still in effect, criminalizes certain forms of gambling, including betting and running a Gaming House. With the increasing popularity of online gaming in India, the legality of the online versions of the games which are traditionally construed as gambling is creating a complex and often contradictory legal landscape in different parts of the country. In recent years, there has been some loosening of restrictions on certain types of gambling, particularly online gaming, though few parts of the country are yet to wrap around the definition and interpretation of the online game of chance and game of skill. The air around the legal status of these activities remains uncertain. Overall, betting and Wheel/Reel Based Games are viewed with suspicion in India due to a

combination of cultural, religious, and legal factors, but the situation is evolving and may continue to change in the future.

Legality of Wheel/Reel Based Games:

In India, online games are subject to various laws and regulations, depending on their nature and platform in which they are played. Governing of online games differs from state to state, however, Central Acts remain indifferent towards game of skill and merely regulate them. The Central and State laws are discussed hereunder.

I. Central Acts – Legal Analysis:

<p><i>The Public Gambling Act, 1867</i></p>	<p>A Central law that prohibits public gambling, operating and visiting common gaming houses in India. The Act does not specifically mention online gambling or games. However, some of its provisions have been interpreted to apply to online gambling as well.</p> <p>It provides for penalties for those who participate, manage, or assist in such activities. Therefore, playing any form of online game that involves gambling or wagering real money could be considered illegal under this Act.</p> <p>The Indian Courts have distinguished between the game of skill and game of chance and has excluded games like rummy and poker from gambling since they involve high amount of skill.</p>
<p><i>Information Technology Act, 2000</i></p>	<p>An Indian legislation that provides legal recognition to electronic transactions and governs the use of electronic records and digital signatures. In relation to online games, the IT Act provides for the regulation and punishment of various offences that can be committed through</p>



	the use of computer systems or electronic communication devices.
<i>Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021</i>	<p>The Rules were introduced to regulate the functioning of digital media, including online games subject to the provisions of the Information Technology Act, 2000, which includes provisions related to online gambling and cybercrime.</p> <p>The Rules mandate that the online gaming platforms must have a grievance redressal mechanism, age verification etc and other such compliances before onboarding.</p>
<i>Payment and Settlement Systems Act, 2007</i>	<p>An Indian legislation that provides for the regulation and supervision of payment and settlement systems in India. The Act establishes the Reserve Bank of India (RBI) as the primary regulator of these systems.</p> <p>The Act does not specifically address to online games but has implications on the payment processing related to it, the payment and settlement system that facilitates transaction in the platform will be governed by this act.</p> <p>Under the Act, the platform must obtain RBI authorization to operate in India and follow certain guidelines related to security, risk management, and consumer protection and dispute resolution.</p> <p>Payment processing is a critical factor in determining the legality of the online games.</p>
<i>Master Direction on Digital Payment Security Controls – RBI Guidelines 2021</i>	It mandates the payment processing companies to secure and assess the risk associated with online gaming transactions, stronger authentication, track suspicious transactions, to maintain records of all online gaming transaction for a period of at least 10 years etc.

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	It also mandates an online gaming platform to ensure that the customer payment information to be stored securely.
<i>Income Tax Act, 1961.</i>	Online gaming platforms are required to pay tax on their revenues at applicable rate.
<i>Goods and Services Tax (GST) Act, 2017</i>	The GST rate for online gaming varies depending on the nature of game with skill-based games attracting lower rate of tax.
<i>Finance Bill, 2023</i>	Budget 2023 has removed the threshold for TDS on online gaming winnings.

II. State wise Legal Analysis:

S.No.	States and Union Territories	Relevant Acts and Regulations	Legality of Game of Skill
1.	Andhra Pradesh	Andhra Pradesh Gaming Act, 1974 read with Andhra Pradesh Gaming (Amendment Act) 2020	Illegal Challenge pending with the High Court and the High Court has ordered forming of a committee to determine if online games are games of chance or skill.
2.	Andaman and Nicobar Islands	Public Gambling Act, 1867	Legal As it still follows the Central Act and various Supreme Court judgements, have distinguished between

			game of skill and game of chance and laid down test to determine the same.
3.	Arunachal Pradesh	The Arunachal Pradesh Gambling (Prohibition) Act, 2012	Illegal Though the state differentiates between game of skill and game of chance but prohibits all forms of games involving real money.
4.	Assam	The Assam Game and Betting Act, 1970	Illegal Any form of game that involve betting are banned.
5.	Bihar	Public Gambling Act, 1867	Legal As it still follows the Central Act and various Supreme Court judgements, have distinguished between game of skill and game of chance and laid down test to determine the same.
6.	Chandigarh	Public Gambling Act, 1867	Legal As it still follows the central act and various Supreme Court judgements, have distinguished between game of skill and game of chance and laid down test to determine the same.

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7.	Chhattisgarh	Chhattisgarh Gaming (Prohibition) Act, 2022	Illegal The Bill was passed in March 2023, bans all forms of online betting, attaching, paying or receiving money, prizes therefore banning illegal extraction of money. But it makes a distinction between game of skill and game of chance
8.	Dadra and Nagar Haveli and Daman and Diu	Goa, Daman and Diu Public Gambling Act, 1976	Legal Since it does not treat online gaming in the purview of "Gambling house"
9.	Delhi	Public Gambling Act, 1867	Legal As it still follows the Central Act and various Supreme Court judgements, have distinguished between game of skill and game of chance and laid down test to determine the same.
10.	Goa	Goa, Daman and Diu Public Gambling Act, 1976	Legal Since it does not treat online gaming in the purview of "Gambling house".

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11.	Gujarat	The Gujarat Prevention of Gambling Act, 1887	Illegal In <i>Dominance Games Pvt Ltd. V. State of Gujarat</i> ruled poker as game of chance. An appeal is pending before the Division Bench of the High Court
12.	Haryana	Public Gambling Act, 1867	Legal As it still follows the Central Act and various Supreme Court judgements, have distinguished between game of skill and game of chance and laid down test to determine the same.
13.	Himachal Pradesh	Public Gambling Act, 1867	Legal As it still follows the Central Act and various Supreme Court judgements, have distinguished between game of skill and game of chance and laid down test to determine the same.
14.	Jharkhand	Public Gambling Act, 1867	Legal As it still follows the Central Act and various Supreme Court judgements, have

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			distinguished between game of skill and game of chance and laid down test to determine the same.
15.	Karnataka	The Karnataka Prevention of Gambling Act, 1961	Legal An Amendment in 2021 declared poker as gambling and banned the online game. Later it was struck down by Karnataka High Court and an appeal is pending before the Supreme Court
16.	Kerala	The Kerala Gaming Act, 1960	Legal In 2021, the Kerala High Court struck down the ban imposed on online games, but there is a speculation that online real money games may soon be declared illegal.
17.	Lakshadweep	Public Gambling Act, 1867	Legal As it still follows the Central Act and various Supreme Court judgements, have distinguished between game of skill and game of chance and laid down test to determine the same.

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18.	Madhya Pradesh	Public Gambling Act, 1867	<p>Legal</p> <p>As it still follows the Central Act and various Supreme Court judgements, have distinguished between game of skill and game of chance and laid down test to determine the same.</p>
19.	Maharashtra	Maharashtra Prevention of Gambling Act, 1887	<p>Legal</p> <p>Though it is uncertain as to the stand of the Government as to whether online rummy, online poker etc, are game of skill or game of chance. A writ petition is pending before the Division Bench of High Court.</p>
20.	Manipur	Public Gambling Act, 1867	<p>Legal</p> <p>As it still follows the Central Act and various Supreme Court judgements, have distinguished between game of skill and game of chance and laid down test to determine the same.</p>
21.	Meghalaya	Meghalaya Regulation of	<p>Legal</p>

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		Gaming Rules, 2021.	The Schedule C has specifically categorized Poker as a game of skill. Further, the gaming rules has been struck down recently.
22.	Mizoram	Public Gambling Act, 1867	Legal As it still follows the Central Act and various Supreme Court judgements, have distinguished between game of skill and game of chance and laid down test to determine the same.
23.	Nagaland	Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act, 2016	Legal Wagering and betting in Game of skill excluded from gambling. Game of skill as determined by Indian and International Courts. Poker in the Act under schedule A is categorized as Game of Skill
24.	Odisha	The Odisha Prevention of Gambling Act, 1955	Illegal All forms of gambling are banned, no difference between game of chance or game of skill

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25.	Puducherry	Public Gambling Act, 1867	<p>Legal</p> <p>As it still follows the Central Act and various Supreme Court judgements, have distinguished between game of skill and game of chance and laid down test to determine the same.</p>
26.	Punjab	Public Gambling Act, 1867	<p>Legal</p> <p>As it still follows the Central Act and various Supreme Court judgements, have distinguished between game of skill and game of chance and laid down test to determine the same.</p>
27.	Rajasthan	The Rajasthan Public Gaming Ordinance, 1949	<p>Legal</p> <p>A writ has been filed in the name of <i>Myteam11 Fantasy Sports Private Limited Vs. Union of India</i>, pending disposal where the legality of online games has been challenged and a bill namely Rajasthan Virtual Online Sports (Regulation) Bill 2022 is pending approval.</p>

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28.	Sikkim	Sikkim Online Gaming (Regulation) Act, 2008	Legal License to be obtained which will be valid for a maximum of 5 years. Regulates, does not restrict or ban.
29.	Tamil Nadu	The Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Ordinance, 2022	Illegal Prohibits online gambling and online games of chance played for money or other stakes including Poker and Rummy.
30.	Telangana	Telangana Gaming (Amendment) Act, 2017	Illegal The Word Cyber Space inserted to give it an equal meaning to a gambling house. Challenge pending before High Court
31.	Tripura	The Tripura Gambling act, 1926	Legal Does not prohibit games of skill.
32.	Uttar Pradesh	The Public Gambling Act, 1867	Legal As it still follows the Central Act and various Supreme Court judgements, have distinguished between

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			game of skill and game of chance and laid down test to determine the same. It is expected to regulate online games in the future.
33.	Uttarakhand	Public Gambling Act, 1867	Legal As it still follows the Central Act and various Supreme Court judgements, have distinguished between game of skill and game of chance and laid down test to determine the same.
34.	West Bengal	West Bengal Gambling and Prize Competitions Act, 1957	Legal Excludes poker from the definition of gambling.

Legal – 26/34

Illegal – 8/34

III. Legal Principles on “Game of Skill or Game of Chance”:

It is illegal to conduct or participate in a game that involves wagering or betting provided the outcome of the game is determined largely by chance rather than skill.

In the landmark Supreme Court judgment in ***State of Bombay v. R.M.D. Chamarbaugwala, (1957) SCR 874***, the Court held that games of skill are those in which success depends principally upon the superior



knowledge, training, attention, experience and adroitness of the player" while games of chance are those "in which success depends primarily on the fortuitous or accidental element". Games such as Golf, Chess and even Rummy have been considered as a game of skill.

In the case of ***State of Andhra Pradesh v. K. Satyanarayana, AIR 1968 SC 825***, the Hon'ble Supreme Court laid down legal framework for determining whether a game is of chance or skill, also known as the "Dominance Test". They are:

- The element of chance in the game must not be predominant.
- The game should be primarily based on the skill of the players.
- The skills required to play the game should involve a substantial degree of mental skill.
- The game should be played on a physical form and not through a machine or computer.

This test is applied even presently, in determining the probability of skill and chance in online games. The Karnataka High Court in ***M.J. Sivani & Ors. v. State of Karnataka & Ors (2018) 2 SCC 791*** applied the Dominance Test to determine whether the online game of Rummy was a game of chance or a game of skill. On application of the test, the Hon'ble Court ruled that online game of Rummy is a game of skill and will be exempted from Section 13 of Karnataka Gambling Act, 1974, but with a condition that no stakes were to be involved.

In ***Gaussian Networks Pvt. Ltd. v. Monica Lakhnupal & Ors., (2019) 3 SCC 614***, an online website "adda52.com" was hosting various games including Poker which involved money as well as free games for the users. It was challenged on the ground that the website was running illegal gambling activities and was in violation of various state laws. The issue was whether the games offered were games of skill or chance and whether the website was running legally. Applying the Dominance Test laid in the



State of Andhra Pradesh vs K. Satyanarayana, the Hon'ble Court held that it is game of skill not merely a chance. The Court also referred to the expert committee report and opined that poker is a game of skill. And thus, held that the website was not involved in any gambling or illegal activities as defined under the Information Technology Act, 2000 and thus doesn't attract any penal action.

IV. Legal Principles on "Online Real Money-game":

This can be defined as an online game where a user makes a deposit in cash or kind with the expectation of earning winnings on that deposit.

The Indian courts and state laws does not prohibit a game of chance being played online as long as it does not involve money of cash or kind but prohibits a game of skill when played for money. In that scenario the game is construed to that of betting or gambling. Some states outright ban the game as well any money that is involved.

Whether or not a particular online game is legal or illegal depends on whether it is a game of skill or chance and whether the money involved is a prize or reward or a bet. The payment processing also affects the legality of the game; for instance, the payments to and from the platform must only be through an authorized channel of RBI, if not, the game is considered to be illegal.

The Game - "Stop-Slot Based Skilled Games":

In "Stop-Slot Based Skilled Games", its variations and derivatives are considered skill-based games. In these games, players are required to press a button below each wheel of a slot machine to stop them individually. Unlike traditional slots, the players can see the values on the wheel and the wheels do not stop randomly but only when the player presses the corresponding



button. The outcome of the game relies on the hand-eye coordination, timing, and dexterity of the player.

I. Legal Analysis of the game:

Based on the analysis of the rules of the game, it appears that the game has certain elements that could be considered as requiring skill. These elements include:

- Hand-eye coordination: The game requires players to press a button at the right moment to stop each wheel. This necessitates precise timing and coordination between the player's hand movements and visual perception.
- Dexterity: Players must possess manual dexterity to accurately press the button corresponding to each wheel. The ability to control their hand movements and react swiftly is crucial for achieving the desired outcome.
- Timing: The timing of pressing the button is essential to stop the wheels at the desired positions. Players need to judge and execute their actions at the precise moment to obtain the intended outcome.
- Skill development: The game allows players to develop their skills over time through practice and experience. With practice, players can improve their hand-eye coordination, timing, and dexterity, thereby increasing their chances of achieving favourable outcomes.

These elements indicate that success in " Stop-Slot Based Skilled Games " and its derivatives relies on the player's physical abilities and the honing of specific skills rather than mere chance. The outcome is influenced by the player's proficiency in performing the required actions accurately and effectively.



One element of Stop-Slot Based Skilled Games that might be considered while determining if it is game of chance or game of skill is that the nascence of strategic decision-making, unlike skill-based games where strategic decision-making plays a significant role, the game primarily relies on chance and the player's actions are limited to pressing the buttons at the desired moment, with no strategic planning or decision-making involved and though the player's hand-eye coordination and dexterity may influence the timing of pressing the buttons, they do not have direct control over the final outcome.

II. Dominant Factor Test:

In the case of ***State of Andhra Pradesh Vs. K. Satyanarayana and Others***, the Supreme Court laid down the "Dominant Factor Test" to determine whether a game is a game of skill or a game of chance. The test requires the court to determine the dominant factor in the game, which is the factor that has the greatest impact on the outcome of the game.

Applying this test to "Stop-Slot Based Skilled Games", it can be argued that the dominant factor in the game is skill based on the following:

- **The nature of the game:** The game involves a series of number rotating in a wheel, and the player can identify the numbers that are spinning without any difficulty and the skill of the player is applied in stopping the wheel at the right time to get a desired outcome.
- **The extent of the control exercised by the player:** The player has control over when to stop, has knowledge on what are the possibilities, judges the spinning wheel and presses the wheel in order to make it stop at the desired outcome.
- **The degree of skill required to play the game:** Stop-Slot Based Skilled Games require strong hand-eye coordination, timing and



dexterity, which require a certain amount of skill and precision, and the amount of chance involved is lower than the amount of skill required.

- **The degree of chance involved in the game:** The positioning of the wheels and the resulting combination or alignment are not determined by chance.
- **The amount of the stake or the value of the prize:** The stake and prize value can vary, but there is usually a fixed bet or buy-in amount and a prize pool based on the final ranking of players.
- **The degree of awareness of the player of the conditions of the game:** The player is fully aware of the rules and conditions of the game, as they are presented with all possible options and must stop the wheel at the right time to get a winning outcome.
- **The presence of any other factors such as the presence of a dealer or other players:** Stop-Slot Based Skilled Games is a one-player game, so there is no dealer or other players involved unless and until it is a multi-player game, even then the players will be competing individually in own bets and not on common money pool.

Conclusion:

On thorough analysis of the Central and State laws, and by applying the rules of the game to the existing laws, the conclusion drawn for the question “Whether AvatarLife can legally host Wheel/Reel Based Games which purely involves the wheel spinning and stopping on a number similar to Skilled Stop Slot Machines, Skilled Games with Reels that spin and are stopped by the players, Prize Wheels, etc?” and “What are the restrictions that are imposed on a gaming platform that hosts such games?” is that India is in the beginning stages of analysing the effects of different internet modules that engage the citizens of the country and assessing how it will affect their well-being. The

situation around establishing the platform in India is subject to the provisions of the Central and State law as mentioned above.

Hence, in view of the above discussions and analysis we are of the opinion that India as a country is welcoming of games of skill and has also framed the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, to accommodate the platforms subject to their regulations and provisions. It is advised that the states mentioned as illegal above may be geo-fenced and excluded from access to the game and it is further advised that the platform may remain flexible to change in the near future if there are any changes in the law of the land. Further, it is also advised that before establishing the platform in India, the necessary regulations laid down in the Acts and Rules as mentioned above shall be complied with, along with getting an authorised payment processing system to avoid legal complications.

Stop-Slot Based Skilled Games which appear like games of chance on a peripheral glance, while actually involving a skill, might have its own set of complications and challenges to be proved as one. Hence, it is advised to have a disclaimer differentiating/establishing it as a game of skill prior to the player starting the game to avoid speculation.

The query is answered accordingly.



Shuha.S
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Note:

- This legal opinion or its part shall not be used or referred to in any of the pleadings before any Court of Law; a copy of this opinion shall be kept in your office file. No other person/entity/department may rely upon it for any purpose without the previous written consent of the above signed.
- This legal opinion has been rendered based on the law as it stands on date and is based upon the facts and documents supplied by the querist, and it has been rendered to the best of ability.

