THE DEFINITIVE GUIDE · 2026 EDITION

OIDAR GST in India

The Complete Guide for Foreign Digital Businesses

Everything a foreign SaaS, AI, streaming, gaming, EdTech, or cloud company needs to understand and act on about India's GST regime for digital services. Current to the Finance Act 2023 amendments and the 2026 enforcement landscape.

18% IGST	No threshold	Monthly filing	Since 2017
On B2C digital supplies	One Indian customer triggers it	GSTR-5A by the 20th	Widened by Finance Act 2023

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Who this guide is for

CFOs, tax directors, finance controllers, founders, and general counsel at foreign digital companies — from venture-backed SaaS startups to global platforms — who need both legal precision and a practical playbook in one place.

Executive summary

If your company is incorporated outside India and sells a digital service to someone in India, India's OIDAR rules almost certainly apply to you — from your very first Indian customer, with no revenue threshold.

The ten things to know

- **OIDAR** = Online Information and Database Access or Retrieval — India's GST category for internet-delivered digital services.
- Governed by **Section 2(17) of the IGST Act, 2017**, and significantly **widened by the Finance Act 2023** (effective 1 October 2023).
- There is **no minimum revenue threshold** — one paying Indian customer creates the obligation.
- The rate is **18% IGST** on business-to-consumer (B2C) supplies.
- Liability turns on the **non-taxable online recipient (NTOR)** concept — essentially, is your customer GST-registered.
- **B2C** (unregistered): you register and pay. **B2B** (registered): the Indian business pays under reverse charge.
- You register once using **Form GST REG-10** — no Indian PAN or physical presence required.
- You then file **GSTR-5A monthly**, by the 20th of the following month — including nil returns.
- **Online money gaming was carved out** of OIDAR into its own regime (Section 14A) in 2023 — and is now **banned outright** under the 2025 Online Gaming Act, with confirmed retrospective 28% GST liability for the pre-ban period.
- Enforcement is rising sharply in 2024-26, with **retrospective demands** back to 2017 and a new three-year filing cut-off.

1. What OIDAR actually is

OIDAR stands for **Online Information and Database Access or Retrieval** — the category of services delivered over the internet or an electronic network, where the technology is the delivery mechanism. The legal definition lives in **Section 2(17) of the IGST Act, 2017**.

> **Definition · Section 2(17) IGST Act**
> OIDAR means services whose delivery is mediated by information technology over the internet or an electronic network, and which are impossible to supply without information technology. Following the Finance Act 2023, the supply no longer needs to be 'essentially automated and involving minimal human intervention'.

The 2023 amendment changed the game

Before 1 October 2023, a service only counted as OIDAR if it was 'essentially automated and involving minimal human intervention.' The **Finance Act 2023 deleted that limb.** The test now focuses on the mode of delivery, not the degree of automation — so human-assisted services delivered online (such as live online courses) now qualify.

> **What this means in practice**
> A foreign platform offering live, instructor-led online courses to Indian learners was often treated as outside OIDAR before October 2023. After the amendment, the default has shifted toward that same service being within OIDAR — but genuinely human-dominated live delivery remains a real grey area tested case by case, not a settled question. Treat this as a get-assessed situation, not an assumed outcome.

The legal architecture

Provision	What it governs
Section 2(17) IGST Act	Defines what an OIDAR service is
Section 2(16) IGST Act	Defines the non-taxable online recipient (NTOR)
Section 13(12) IGST Act	Place of supply — when a customer is deemed to be in India
Section 14 IGST Act	Makes the foreign supplier liable for NTOR supplies
Section 14A IGST Act	Separate regime for online money gaming (2023) — now banned outright (2025 Act); see dedicated gaming guide
Rule 64, CGST Rules	The GSTR-5A monthly return mechanism

Which services qualify

- **SaaS** and cloud-based applications
- **Cloud infrastructure and APIs** — hosting, storage, compute, developer APIs
- **Streaming** of music, video, and digital media

- **Online education** — pre-recorded and (post-2023) live
- **Online gaming** — excluding online money gaming, which is now banned outright (see Section 5)
- **Digital advertising** and online marketplaces
- **E-books, software downloads,** and digital content

Common mistake

Assuming that because your service involves significant human work it cannot be OIDAR. Post-2023, that reasoning is outdated. The question is whether the service is delivered over the internet, not how automated it is.

2. Does OIDAR apply to you?

Four questions decide it:

- **Is your company incorporated outside India?** If no, standard domestic GST applies, not OIDAR.
- **Is your service delivered over the internet?** If no, you are outside OIDAR.
- **Do you have recipients in India?** Determined by the place-of-supply test (Section 4 below).
- **Is the Indian recipient GST-registered?** Registered = reverse charge (B2B). Unregistered = OIDAR applies, you pay (B2C).

> **❖ Professional tip**
> Almost every foreign digital business has some unregistered Indian customers — individuals, sole proprietors, small startups without GST registration. The practical answer for most companies with any India presence is: yes, register. A purely B2B position is rarer than founders assume and must be evidenced.

> **✓ Key takeaway**
> Foreign entity + internet-delivered service + any unregistered Indian customer = OIDAR registration is mandatory. The threshold is zero.

When you may be exempt, or outside OIDAR entirely

OIDAR is broad, but not universal. Misclassifying yourself into unnecessary compliance is its own costly mistake. The genuine exits are narrower than founders often hope, but they are real:

- **No recipients in India** — if no customer satisfies the two-indicator place-of-supply test, there is no current obligation.
- **Indian-incorporated entity** — OIDAR targets foreign suppliers; Indian companies fall under standard domestic GST instead.
- **Physical or offline delivery** — services not delivered over the internet are outside the OIDAR definition.
- **Genuinely pure B2B, evidenced** — if every Indian recipient holds a valid, verified GSTIN, reverse charge applies instead. This depends entirely on evidence.
- **Online money gaming** — no longer simply a different OIDAR regime: real-money gaming is now banned outright in India (2025 Online Gaming Act), with confirmed retrospective 28% GST liability on full stake value. This is not a standard registration question.

> **■ Don't assume either way**
> The cost of wrongly assuming you're exempt is retrospective liability and penalties. The cost of wrongly assuming you're covered is unnecessary registration and filing burden. Both mistakes are avoidable with a proper assessment.

3. The NTOR concept: B2C vs B2B

India does not collect tax from millions of individual consumers. It draws one line: **is your Indian customer GST-registered or not?** That line is the non-taxable online recipient definition.

■ Definition · Section 2(16) IGST Act (as amended)

A non-taxable online recipient is any unregistered person receiving OIDAR services, located in India — regardless of the purpose for which the service is used. The Finance Act 2023 removed the old 'non-business purposes' qualifier. If they are not GST-registered, they are an NTOR, and you are liable.

The two paths, side by side

	B2C — Unregistered (NTOR)	B2B — GST-registered
Who pays	You, the foreign supplier	The Indian business (RCM)
Mechanism	Forward charge	Reverse Charge Mechanism
Rate	18% IGST	18% IGST (paid by recipient)
Your registration	Mandatory (REG-10)	Not triggered by these alone
Reported in	GSTR-5A Table 5	GSTR-5A Table 5B
Evidence needed	Location indicators	Customer's valid GSTIN

■ Common mistake

Treating every Indian business customer as 'B2B, not my problem.' If a customer cannot produce a valid GSTIN, they are an NTOR and the liability is yours. Collect and validate GSTINs at the point of sale.

⌖ Professional tip

Build GSTIN capture into your checkout. A customer who enters a valid GSTIN is treated as B2B; everyone else defaults to B2C where you charge 18% IGST. This single design decision protects you from misclassification liability.

4. What you owe — rate, value, place of supply

The rate: 18% IGST

OIDAR B2C supplies attract **18% Integrated GST** on the value of the service. You collect it and remit it through your monthly return.

> **Example**
> A US SaaS company sells a $100/month subscription to an unregistered Indian user. It charges 18% IGST — a GST-inclusive price of $118, of which $18 goes to India. Over a year, that is $216 in IGST on a single customer.

Place of supply: when is a customer 'in India'?

Under **Section 13(12)**, the place of supply is the recipient's location. A recipient is deemed to be in India if **any two non-contradictory indicators** point to India:

#	Location indicator
1	Address given over the internet is in India
2	Payment card was issued in India
3	Billing address is in India
4	Device IP address is in India
5	Bank holding the payment account is in India
6	SIM card country code is India
7	Fixed landline used is in India

> **Example**
> A user signs up with an Indian billing address (indicator 3) and pays with an Indian-issued card (indicator 2). Two non-contradictory indicators point to India — the supply is taxable in India, even if the user is travelling abroad.

Valuation and currency

GST is charged on transaction value. Where you bill in foreign currency, convert to rupees using the applicable rate for the period. Keep clear records — inconsistent FX treatment is a frequent audit flag.

> ✥ **Professional tip**
> Log all available location indicators for every transaction, not just the two you rely on. If the department challenges your classification, a rich evidence trail (IP, billing, card BIN, SIM) is your strongest defence. Stripe, Razorpay and similar processors capture much of this automatically.

5. Industry playbooks

Sector	OIDAR position & watch-point
SaaS & software	In scope. Watch mixed B2B/B2C bases — capture GSTINs to separate them.
Cloud, AI & APIs	Largely B2B, but unregistered developers create a B2C tail (NTOR).
Streaming & media	Most clear-cut category — named in the statute. Near-universal registration.
EdTech & learning	Pre-recorded content is squarely OIDAR; live delivery faces a higher bar post-2023 but genuinely human-dominated teaching remains a real grey area.
Gaming	Standard games in scope at 18%. Real-money gaming is now banned outright (2025 Act) with confirmed retrospective 28% liability.
Marketplaces & ads	Intermediary rules can deem the platform the supplier and shift liability.

Worked scenario — SaaS

A US project-management SaaS with 4,000 Indian users assumed 'we're B2B SaaS.' In reality, 3,700 unregistered users are NTORs: the company must register, charge 18% IGST, and file monthly; the 300 registered businesses go in Table 5B under reverse charge. **Verdict: registration mandatory, with retrospective exposure.**

Worked scenario — EdTech

A UK platform offering live cohort courses relied on the pre-2023 'human interaction' argument and hasn't revisited it. This is a genuine grey area: a Karnataka AAAR ruling (In re: NCS Pearson INC) shows the same authority reaching opposite conclusions across two tiers on a similar human-intervention question. **Verdict: the default has shifted toward in-scope, but this specific fact pattern needs a proper assessment, not an assumption.**

Company and platform names used in this guide are recognisable illustrations of business models only, and do not represent any statement about those companies' actual tax positions.

6. Registration: step by step

Foreign OIDAR providers register under a special category using **Form GST REG-10** (Section 24(xi) CGST, Notification 10/2017-IT). The process is online and typically takes **7 to 15 working days**.

- **Confirm applicability** and classify your B2C vs B2B split.
- **Gather documents:** incorporation certificate, proof of business abroad, home-country tax ID (no Indian PAN), bank details, authorised signatory.
- **Decide on an Indian representative** — optional but common; can be jointly responsible for tax.
- **File Form GST REG-10** on the GST portal with supporting documents.
- **Receive your GSTIN** — you are now live and obligated to file.
- **Configure billing** for 18% IGST on B2C and GSTIN capture for B2B.

■ No PAN, no problem

Unlike domestic registration, the OIDAR route does not require an Indian PAN — it uses your home-country tax identification number. A deliberate simplification for foreign businesses.

✥ Professional tip

Appointing an experienced Indian representative is usually worth it — they handle portal interactions, monthly filing, and departmental queries, removing the operational burden and missed-deadline risk of managing Indian compliance from abroad.

7. Ongoing compliance: GSTR-5A

GSTR-5A is the monthly return for foreign OIDAR providers (Section 14 IGST, Section 39(5) CGST, Rule 64 CGST Rules), due by the **20th of the following month**.

Return structure

Table	What it captures
Table 5 / 5A	B2C supplies to NTORs and amendments
Table 5B / 5C	Supplies to registered businesses (reverse charge) and amendments
Table 5D / 5E	Online money gaming supplies (Section 14A) — relevant to historical filings; new online money gaming is now banned
Table 6	Interest and other amounts
Table 7	Tax payable and paid (auto-populated)

Four rules that trip people up

- **Nil returns are mandatory** — no Indian sales still means you file a nil return.
- **No input tax credit** — the 18% is a true cost; there is no offset.
- **Pay before you file** — the return locks until tax due is paid in cash.
- **Sequential filing** — one missed month blocks all subsequent months.

Critical — the three-year cut-off (2025)

Following a GSTN advisory effective from the July 2025 period, GST returns including GSTR-5A cannot be filed after three years from their due date. A missed return becomes permanently unfileable. Backlogs must be cleared promptly.

8. Penalties & enforcement

For years, OIDAR enforcement was light. Since 2023, India has built the data infrastructure to find non-compliant foreign providers — and is using it.

Trigger	Consequence
Late filing (normal)	Rs 200/day (Rs 100 CGST + Rs 100 SGST), subject to cap
Late filing (nil)	Rs 100/day, subject to cap
Interest on unpaid tax	18% per annum from the due date
Failure to register/file (S.122)	Rs 10,000 or the tax amount, whichever is higher
Non-fraud demand (S.73)	Tax + interest
Fraud / wilful (S.74)	Tax + 100% penalty + interest
Recovery (S.79)	Bank attachment, asset seizure, other modes

■ Example · retrospective exposure

A foreign platform with ~$500,000 annual India B2C revenue, unregistered since 2018: ~18% IGST per year, compounded with 18% annual interest and Section 122/74 penalties, can produce total exposure well above $1 million by the time a demand is raised. The tax was never 'saved' — it accrued silently.

How India identifies non-compliant providers

- **Payment processor data** — gateways report India-origin transaction flows
- **App store reporting** — platform stores provide India revenue data
- **Reverse-charge filings** — Indian customers disclose foreign suppliers
- **AIS matching and OECD exchange** — cross-border information sharing

⌖ Professional tip

Voluntary registration and disclosure before a notice arrives consistently produces far better outcomes than waiting. It signals good faith, can reduce penalties, and gives you control over timeline. Once a Show Cause Notice lands, your options narrow and a ~30-day clock starts.

9. Common mistakes & professional observations

- **'We're too small for India to notice'** — no threshold, automated detection, and small revenue compounds into large retrospective liability.
- **'All our Indian customers are businesses'** — rarely true; unvalidated GSTINs mean a B2C tail you are liable for.
- **Relying on the pre-2023 'human intervention' argument** — the carve-out is gone; re-examine positions from October 2023.
- **Assuming online money gaming is just a different OIDAR regime** — it is now banned outright (2025 Act), with confirmed retrospective 28% GST liability on full stake value. Treat this as urgent, not a classification nuance.
- **Skipping nil returns** — the obligation continues; missed returns risk the three-year cut-off.
- **Forgetting there is no input tax credit** — the 18% is a true cost; reflect it in India pricing.
- **Poor location-evidence hygiene** — capture and retain place-of-supply indicators to defend classifications.

> ✥ **Professional observation**
> The companies that handle OIDAR well treat it as a product and billing decision, not just a tax filing. GSTIN capture at checkout, IGST logic in the pricing engine, and automated location logging turn compliance into a byproduct of good system design.

10. Your decision-ready checklist

- Confirm your entity is foreign and your service is internet-delivered (Section 2(17))
- Identify Indian recipients — apply the two-indicator place-of-supply test
- Classify each customer as NTOR (B2C) or registered (B2B); capture and validate GSTINs
- Quantify historical India B2C revenue back to your first Indian sale — your exposure base
- Register via Form GST REG-10 if any B2C/NTOR supplies exist
- Configure billing: 18% IGST on B2C, reverse charge on B2B
- Set up a monthly GSTR-5A close, due the 20th, including nil returns
- Log location indicators; retain records for at least six years
- If historically non-compliant, assess voluntary disclosure before a notice
- Decide whether to appoint an Indian authorised representative

Where does your business stand?

Every foreign digital business serving India has an OIDAR position — the only question is whether it is managed. Find out exactly where you stand, with no cost and no obligation.

Book a free 15-minute call → oidarindia.com

This guide reflects the Indian OIDAR GST framework as at June 2026, including the Finance Act 2023 amendments effective 1 October 2023 and GSTN advisories through 2025. It draws on the IGST Act 2017, CGST Act 2017, CGST Rules, and CBIC notifications. It is provided for general information only and does not constitute professional advice. OIDAR law evolves; obtain advice specific to your circumstances before acting.