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When Income Has No Price: The Computational Failure in Taxing In-Kind Benefits Received by Influencers

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ABSTRACT

Influencers frequently receive in-kind benefits from brands in exchange for promotional services. While the Income-tax Act, 1961, and in particular Sections 28(i), 28(iv) and 56(2)(x), broadly bring income from business within charge, it supplies no clear method for valuing non-monetary benefits. That gap creates uncertainty in tax computation and raises concerns about fairness and certainty, and it leaves room to question the principle enshrined in Article 265 of the Constitution. This paper analyses the difficulties in taxing influencers' in-kind benefits and highlights the absence of legislative and administrative guidance. It draws on the jurisprudence addressing the valuation of non-cash receipts, notably Commissioner of Income Tax v. B.C. Srinivasa Setty*, and it assesses recent clarifications issued by the Central Board of Direct Taxes on perquisites and benefits received in kind. The study also examines Section 194R, which imposes tax deduction at source on benefits or perquisites. The paper ultimately argues that the present rules produce inconsistent treatment of influencer income, which in turn results in compliance difficulties for taxpayers and potential revenue loss for the government. The novelty of the research lies in its focused analysis of in-kind consideration in digital marketing, an area largely unexplored in Indian tax scholarship. By proposing clearer valuation methods and statutory guidance, the study contributes to ongoing debates on the taxation of the digital economy, and it emphasises the need for reforms that align practical enforcement with legal certainty and fairness.*

Keywords: *Digital Influencers, In-Kind Benefits, Income Tax Act 1961, Non-Monetary Consideration, Tax Computation*

I. INTRODUCTION

The rapid rise of digital influencers and online content creators has created new forms of economic activity, and that activity poses a challenge to the Indian tax framework. Influencers often receive in-kind benefits from brands and companies, such as free products, sponsored trips, or hospitality, in exchange for promotional services or for endorsing a brand on digital

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platforms.[1] These benefits involve no direct cash payment, yet they carry real economic value for the recipient.

In Indian taxation law, income arising from business or profession is generally chargeable under the head "Profits and gains of business or profession" in Section 28 of the Income-tax Act, 1961, which brings to tax the value of any benefit or perquisite arising from business or the exercise of a profession, whether convertible into money or not.[2] The statute, however, provides no clear mechanism for valuing non-monetary or in-kind consideration where no cash changes hands, and the resulting uncertainty affects taxpayers and revenue authorities alike.

To address non-cash benefits, the Finance Act, 2022 introduced Section 194R, which requires tax to be deducted at source at ten per cent on the value of a benefit or perquisite provided to a resident, whether the benefit is in cash or in kind, where its aggregate value exceeds ₹20,000 in a financial year.[3] The CENTRAL BOARD OF DIRECT TAXES has issued guidelines clarifying the provision. Those guidelines confirm that deduction is required even where the benefit is not converted into money, and they address the influencer situation directly: a product sent to a social media influencer for the purpose of making promotional content is a benefit or perquisite if the influencer retains it, but not if it is returned to the manufacturer.[4]

Despite these measures, significant gaps remain in how in-kind benefits are valued and taxed, particularly in the absence of valuation standards. This paper examines the doctrinal and computational challenges that follow, focusing on the ambiguities in applying Sections 28 and 194R to digital content creators.

II. THE DIGITAL ECONOMY AND THE RISE OF INFLUENCERS

A. Findings and trends

As the digital economy has transformed how people connect, communicate, and consume, the spread of internet access and smartphones has made digital platforms central to everyday life. India's creator economy has grown rapidly, with millions of individuals producing content and building audiences online.[5] Recent research estimates that between two and two and a half million monetised creators in India now shape more than thirty per cent of consumer purchase

[1] CENTRAL BOARD OF DIRECT TAXES, Circular No. 12 of 2022, Guidelines for Removal of Difficulties Under Sub-section (2) of Section 194R of the Income-tax Act, 1961 (June 16, 2022).
[2] The Income-tax Act, No. 43 of 1961, § 28(iv) (India).
[3] The Income-tax Act, No. 43 of 1961, § 194R (India), inserted by the Finance Act, No. 6 of 2022, with effect from July 1, 2022.
[4] Circular No. 12 of 2022, *supra* note 1 (clarifying that a product given to a social media influencer for the purpose of making promotional content is a benefit or perquisite where the influencer retains it, but not where it is returned to the manufacturer, and that the benefit is ordinarily to be valued at fair market value).
[5] BOSTON CONSULTING GRP., *From Content to Commerce: Mapping India's Creator Economy* (May 2025).

decisions and influence several hundred billion dollars of annual consumer spending.[6] A large proportion of these creators operate at micro and nano scale, with fewer than ten thousand followers.[7] Such creators often lack professional support, yet they serve niche markets and contribute to local economic activity.[8] Recognising this diversity of scale matters, because a taxation framework must accommodate both macro-influencers and micro-influencers if it is to be fair and administratively efficient.

Brand marketing strategies are diversifying alongside. The influencer marketing industry in India was valued at roughly ₹1,875 crore in 2023 and is projected to reach about ₹3,375 crore by 2026.[9] Brands increasingly rely on individuals with digital followings to build trust and drive demand, and a substantial majority of surveyed brands now allocate part of the marketing budget to creator collaborations.[10]

The difficulty is that influencers are paid in different forms. Some receive cash, but many also receive in-kind benefits: free products, travel experiences, or exclusive access to events. These benefits have real economic value, yet they are non-monetary and often hard to quantify in a legal or tax setting. That reality raises pointed questions under the Income-tax Act, 1961.[11]

Another trend is the rise of multi-platform creators. Many influencers work simultaneously across Instagram, YouTube, and short-video platforms such as Moj and Josh.[12] A multi-platform presence complicates the tracking of income, because each platform may use a different reward mechanism, currency, and reporting method.[13] Virtual gifts on live-streaming platforms, for instance, may have no clear cash equivalent yet carry tangible economic value. A comprehensive taxation system must therefore acknowledge these multiple revenue streams if it is to capture actual economic activity.

Only a small share of Indian creators earn substantial income directly from content; the remainder contribute to economic activity indirectly, through brand awareness and consumer influence.[14] As influencers become a mainstream part of commerce and marketing, recognising and understanding non-monetary economic exchange becomes central to law and policy.

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[6] BOSTON CONSULTING GRP., *supra* note 5.
[7] INFLUENCER MKTG. HUB, *The State of Influencer Marketing 2024: Benchmark Report* (2024).
[8] INFLUENCER MKTG. HUB, *supra* note 7.
[9] ERNST & YOUNG & COLLECTIVE ARTISTS NETWORK'S BIG BANG SOCIAL, *The State of Influencer Marketing in India* (Apr. 2024).
[10] ERNST & YOUNG & BIG BANG SOCIAL, *supra* note 9.
[11] The Income-tax Act, No. 43 of 1961 (India).
[12] BOSTON CONSULTING GRP., *supra* note 5.
[13] EUR. PARLIAMENTARY RSCH. SERV., *Online Platforms: Economic and Societal Effects*, PE 656.336 (Mar. 2021).
[14] BOSTON CONSULTING GRP., *supra* note 5.

B. Data-driven analysis of influencer income and in-kind benefits

Understanding the economic footprint of influencers requires attention to the distribution of creator types, the nature of the in-kind benefits they receive, and the way those benefits translate into taxable income. Micro-influencers form the largest segment of the Indian influencer ecosystem by number, while macro-influencers and mega-influencers account for a far smaller share of accounts but a disproportionate share of campaign value.[15]

The value of in-kind benefits scales sharply with audience size. Benefits received by a micro-influencer over a financial year may be modest, while those received by a macro-influencer or a mega-influencer can run into several lakh rupees. That contrast in economic impact is what makes a threshold-based compliance mechanism reasonable and practical for micro-influencers, while more detailed reporting is warranted for higher-earning creators. In-kind benefits are also concentrated on the platforms where branded collaboration is most developed, principally Instagram and YouTube, with the remainder spread across other social and streaming services.

In-kind benefits vary in type and value. Products such as beauty items, electronics, and apparel form the bulk by volume, while travel, hospitality, and exclusive event access form a smaller but higher-value segment.[16]

The relationship between engagement and benefit value is positive: influencers with greater reach and engagement tend to receive higher-value perks. Taxation policy therefore cannot adopt a single approach for all creators. Rules must instead balance economic reality against administrative feasibility. Taken together, the available evidence underlines the complexity and diversity of the influencer economy.

III. Legal framework governing influencer income in India

Understanding how Indian tax law treats income from in-kind benefits requires close examination of the statutory provisions and rules governing business and professional income, following the account of influencers and in-kind benefits given above. At the heart of this framework is the Income-tax Act, 1961.[17] The key provision for non-cash benefits is Section 28(iv), under which the value of any benefit or perquisite arising from business or the exercise of a profession, "whether convertible into money or not", is chargeable under the head "Profits and gains of business or profession".[18] Even where value is not received in cash, therefore, it

[15] Influencer Mktg. Hub, *supra* note 7.
[16] Boston Consulting Grp., *supra* note 5.
[17] The Income-tax Act, *supra* note 11.
[18] The Income-tax Act, No. 43 of 1961, § 28(iv) (India), as amended by the Finance Act, No. 8 of 2023, with effect from Apr. 1, 2024.

may still be treated as taxable income. The Finance Act, 2023 widened the clause with effect from 1 April 2024 so that it now reaches a benefit or perquisite provided in cash, in kind, or partly in each, displacing prospectively the narrower reading the Supreme Court had earlier given the provision.[19]

The current framework assumes that influencers operate much like traditional professionals or businesses.[20] Unlike lawyers, consultants, or small shopkeepers, however, an influencer's income is often episodic, irregular, and contingent on platform algorithms or brand campaigns.[21] Contractual arrangements may be informal, resting on verbal understandings or confirmations exchanged by direct message rather than on signed agreements. This unpredictability complicates the application of Sections 28 and 194R, because tax authorities cannot rely on standard invoicing, bank statements, or financial records to assess income consistently.

Although Section 28(iv) has been part of the law for decades, it has historically been applied to traditional business perks rather than to benefits generated in the digital economy. Until recently it was often unclear how non-cash benefits should be valued and when they should be brought to tax. The Board's Circular No. 12 of 2022 addresses that gap in part, proceeding on the footing that benefits and perquisites fall within Sections 28(iv) and 194R even where they are not convertible into money, and signalling that the revenue treats influencer perks as taxable under those provisions.[22]

Section 194R, inserted by the Finance Act, 2022, imposes an obligation to deduct tax at source on any person providing a benefit or perquisite arising from business or profession.[23] The obligation applies whether the benefit is in cash or in kind. The provision sets a threshold of ₹20,000 in a financial year, so that the deduction obligation arises only once the aggregate value of benefits crosses that figure.[24] The intention is to ensure that benefits given in kind are not left untaxed merely because no cash flows. Together, Sections 28(iv) and 194R form the core of the current framework for taxing in-kind benefits.

[19] *Commissioner of Income Tax v. Mahindra & Mahindra Ltd.*, (2018) 404 ITR 1 (SC) (India).
[20] ORG. FOR ECON. CO-OPERATION & DEV., *The Sharing and Gig Economy: Effective Taxation of Platform Sellers* (2019).
[21] ORG. FOR ECON. CO-OPERATION & DEV., *supra* note 20.
[22] Circular No. 12 of 2022, *supra* note 1.
[23] The Income-tax Act, No. 43 of 1961, § 194R (India).
[24] The Income-tax Act, No. 43 of 1961, § 194R proviso (India); Circular No. 12 of 2022, *supra* note 1 (the aggregate value is to be computed from 1 April of the financial year, although deduction is required only in respect of benefits provided on or after 1 July 2022).

While Sections 28(iv) and 194R assume that influencer income arises from "business or profession", that classification itself deserves closer scrutiny in the context of platform-based work.[25] Many influencers do not operate through structured commercial arrangements, do not maintain regular books of account, and do not exercise full control over pricing or market access.[26] Their visibility, reach, and monetisation opportunities are governed as much by platform algorithms and brand contracts as by independent entrepreneurial decisions.[27] This raises a doctrinal question: whether all influencer activity can uniformly be treated as business income for tax purposes.

The absence of a distinct statutory category for platform-mediated creators creates ambiguity in applying long-standing tax concepts to modern digital labour. In marginal cases, influencer receipts may resemble casual income, income from other sources, or a hybrid form of economic activity that does not fit neatly within the existing heads of income. This classification uncertainty in turn affects the operation of Section 28(iv), whose application presupposes a clear business or professional relationship. Unless the structural mismatch is addressed, valuation and computation problems will remain symptoms of a deeper conceptual gap in the tax framework.

IV. VALUATION OF IN-KIND BENEFITS: DOCTRINAL ISSUES

A. Principles of valuation under Indian tax law

The core principle of valuation in Indian tax law is that income should be measured objectively and consistently, and that a charge which the statute supplies no workable method of computing cannot be enforced.[28] That principle is tested when the benefit received is not in cash. For traditional benefits such as rent-free accommodation or the use of a vehicle, the Income-tax Rules, 1962 prescribe specific methods for determining taxable value, generally by reference to cost or to a prescribed formula.[29]

Fair market value, for the purposes of the Act, is the price an asset would ordinarily fetch on sale in the open market on the relevant date or, where that price is not ascertainable, such price as may be determined in accordance with the rules.[30] Valuing in-kind benefits such as products or travel raises a distinct difficulty. What counts as market value for a limited-edition product

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[25] ORG. FOR ECON. CO-OPERATION & DEV., *Tax Challenges Arising from Digitalisation: Interim Report 2018* (2018).
[26] ORG. FOR ECON. CO-OPERATION & DEV., *supra* note 20.
[27] EUR. PARLIAMENTARY RSCH. SERV., *supra* note 13.
[28] *Commissioner of Income Tax v. B.C. Srinivasa Setty*, (1981) 128 ITR 294 (SC) (India).
[29] The Income-tax Rules, 1962, r. 3 (India).
[30] The Income-tax Act, No. 43 of 1961, § 2(22B) (India).

or a private experience is uncertain, and the Board's guidelines under Section 194R address the question only in part, by directing valuation at fair market value except where the provider has purchased the item, in which case the purchase price governs, or has manufactured it, in which case the price charged to customers governs.[31] A product gifted exclusively for content creation may not be available for retail sale at all, which makes ordinary retail comparison difficult. Sponsored trips to resorts likewise bundle services that are not separately priced, such as guided tours or brand events. The absence of standard valuation benchmarks therefore creates ambiguity for taxpayer and authority alike.

B. Judicial precedent on non-cash receipts

Indian courts have long accepted that income need not be received in cash to be taxable, but the valuation of non-cash receipts has been a persistent source of uncertainty. The leading authority on the relationship between charge and computation is *Commissioner of Income Tax v. B.C. Srinivasa Setty*, in which the Supreme Court held that a charging provision cannot be applied where the computation provisions cannot be worked, and that self-generated goodwill accordingly fell outside the capital gains charge because it had no ascertainable cost of acquisition.[32] The case did not concern in-kind benefits, but its principle travels: a charge that the statute gives no workable machinery to quantify cannot fairly be enforced. That reasoning underlines the importance of a clear and objective valuation framework before a receipt is treated as taxable.

The same tension is visible in the specific context of Section 28(iv). In *Commissioner of Income Tax v. Mahindra & Mahindra Ltd.* the Supreme Court read the clause as confined to a benefit or perquisite received otherwise than in the shape of money, so that the waiver of a cash loan fell outside it.[33] Parliament reversed that outcome prospectively through the Finance Act, 2023. The episode nonetheless illustrates how narrowly drawn language and the absence of computational guidance have driven litigation under this head, and it is precisely that combination which the influencer cases now present in a new form.

C. International comparisons

Other jurisdictions offer useful comparisons. In the United Kingdom, HM REVENUE & CUSTOMS treats income from online content creation as taxable once the activity passes beyond casual hobby status, whether the receipt is in cash or in kind.[34] A creator must register for self-

[31] Circular No. 12 of 2022, *supra* note 1.
[32] *B.C. Srinivasa Setty*, *supra* note 28.
[33] *Mahindra & Mahindra Ltd.*, *supra* note 19.
[34] HM REVENUE & CUSTOMS, *Tax Help for Hustles: Tax Rules for Content Creators* (GOV.UK).

assessment where receipts exceed the annual trading allowance of £1,000, and non-cash benefits such as free products or services received in exchange for promotion must be brought in at their value.[35] The approach aligns barter-like arrangements with conventional taxable receipts and so reduces ambiguity. British practice is also moving towards real-time reporting of benefits in kind, which improves compliance and narrows the scope for dispute.[36]

Australia proceeds on a similar principle. The AUSTRALIAN TAXATION OFFICE treats goods or services received in return for promotional activity as assessable income, and its long-standing ruling on barter and countertrade provides that such transactions are assessable and deductible to the same extent as cash or credit transactions.[37] Whether a product is gifted or a trip sponsored, if there is an expectation of reciprocal business activity its value must be brought to account.[38] Australia further distinguishes hobby activity from business income by reference to regularity, commercial intent, and profit motive, and requires registration for GST only once turnover crosses the prescribed threshold, with supplies made through a trade exchange counted towards that threshold.[39] These criteria give creators and administrators objective standards for determining tax obligations.

India's Sections 28(iv) and 194R, by contrast, recognise that in-kind benefits are taxable but supply no detailed valuation rules or compliance mechanism tailored to creators. Uncertainty follows in determining value, in identifying reporting obligations, and in the scope left for dispute, particularly for creators working across several platforms or receiving cross-border perks. Unlike the United Kingdom and Australia, India does not yet provide standardised thresholds, reporting tools, or valuation benchmarks capable of simplifying compliance and reducing the administrative burden.

Two lessons follow. First, explicit administrative guidance defining how barter and non-cash benefits are to be valued and reported would improve clarity. Second, integration into routine compliance systems, whether through threshold-based registration or automated reporting, would make the reporting of non-cash benefits standard practice rather than an exceptional

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[35] HM REVENUE & CUSTOMS, *supra* note 34 (income from creating online content includes the value of any gift or service received for promoting products online, and the £1,000 trading allowance applies before a self-assessment obligation arises); DELOITTE, *Entertainers and Creatives: Income from Influencing and Content Creating*, TAXSCAPE.

[36] HM REVENUE & CUSTOMS, *Reporting and Paying Income Tax and Class 1A National Insurance Contributions on Benefits in Kind in Real Time* (GOV.UK, Oct. 30, 2024).

[37] AUSTL. TAX'N OFF., *Income Tax: Barter and Countertrade Transactions*, IT 2668 (Feb. 13, 1992).

[38] AUSTL. TAX'N OFF., *Barter and Trade Exchanges*.

[39] *Id.* (supplies made through a trade exchange are taken into account in determining whether an entity meets the GST registration turnover threshold).

exercise. Adopting such measures would harmonise India's statutory provisions with practical reality and help ensure that influencer income is taxed fairly.

A further lesson lies in the adoption of a structured hobby and business distinction test for influencer activity. Both comparator jurisdictions assess whether online content creation amounts to a taxable business by examining the regularity of the activity, commercial intent, expectation of profit, degree of organisation, and reliance on the income for livelihood.[40] A similar multi-factor test in India would allow tax authorities to distinguish casual social media users from professional influencers. An individual who occasionally receives free products without systematic posting, brand negotiation, or monetisation intent could be treated as pursuing a hobby, whereas a creator with recurring brand collaborations, audience analytics, and revenue planning would be carrying on a business or profession.

Such a test would improve fairness and constitutional legitimacy by tying taxation to economic substance rather than to the mere receipt of a benefit. It would also protect micro-creators and casual users from disproportionate compliance burdens while allowing authorities to concentrate enforcement on commercially active influencers. Codifying the test through Board guidelines, or through a statutory explanation to Sections 28(iv) and 194R, would reduce disputes and align India's framework with comparative practice.

V. COMPUTATIONAL CHALLENGES IN TAXING INFLUENCER INCOME

Practical difficulties arise in computing the exact tax liability of digital influencers. Unlike traditional employees, who receive structured perquisites, influencers receive benefits that vary in nature, frequency, and value, which makes their taxable worth hard to quantify under the Income-tax Act, 1961.[41] The difficulty extends to compliance and reporting: influencers may underreport or omit benefits unintentionally because of valuation uncertainty, and dispute with the revenue follows.[42]

Cross-border collaboration adds a further layer. Many influencers work with international brands and receive products or services from outside India. Determining the rupee equivalent, for which the Rules prescribe the telegraphic transfer buying rate on the specified date, and deciding whether the transaction falls within Indian taxing jurisdiction, both complicate the

[40] DELOITTE, *Entertainers and Creatives: Income from Influencing and Content Creating*, TAXSCAPE; AUSTL. TAX'N OFF., *supra* note 38.

[41] The Income-tax Act, *supra* note 11.

[42] Anuja Verma, *Taxation of Influencer Marketing: A Grey Zone in Indian Tax Policy*, 7 INT'L J. FOR MULTIDISCIPLINARY RSCH., no. 5 (2025).

computation.[43] Influencers frequently operate as individuals or small entities without the accounting infrastructure to record and value such benefits consistently.

An overlooked difficulty lies in the asymmetry of information between influencers, digital platforms, and tax authorities. Platforms hold detailed data on collaborations, reach, engagement, and monetisation arrangements.[44] Influencers, by contrast, often receive in-kind benefits without invoices, valuation statements, or written contracts specifying monetary equivalents. Tax authorities lack direct access to platform-level data and must rely largely on self-reporting by creators or on limited third-party disclosure by brands.[45] The structure places the burden of valuation and compliance on individuals who often lack both bargaining power and technical knowledge.[46] Underreporting may therefore occur not from intent but from uncertainty and informational disadvantage.

Many influencers work alone or in small teams without dedicated accounting support, so tracking multiple in-kind benefits, gifts, and sponsorships across platforms is onerous. Unlike salaried employees, for whom the employer prepares a statement of perquisites in the prescribed form, influencers must self-assess the value of each benefit.[47] Inconsistent reporting and disputes follow. The administrative burden falls disproportionately on smaller creators, who may misreport simply because of the complexity of valuing and recording diverse benefits. From an enforcement perspective this produces inconsistent scrutiny and selective compliance. Without institutional mechanisms to bridge the data gap, tax administration risks penalising smaller creators while leaving larger and more complex digital arrangements insufficiently examined. Addressing influencer taxation therefore requires not only clearer legal rules but systemic solutions that account for the central role platforms play in generating and recording digital economic value.

A practical illustration shows how these difficulties play out on both sides of the tax administration. Consider a mid-level lifestyle influencer, B, who collaborates with several brands over a financial year. Instead of cash payments, B receives skincare products, hotel stays, airline tickets, and access to invitation-only events. From B's perspective there is no single invoice, no consolidated statement of value, and no clear indication of how each benefit should be priced. Retail prices fluctuate, hospitality costs vary seasonally, and some benefits, such as

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[43] The Income-tax Rules, 1962, r. 115 (India) (rate of exchange for conversion into rupees of income expressed in foreign currency); The Income-tax Act, No. 43 of 1961, §§ 5(2), 9 (India).
[44] EUR. PARLIAMENTARY RSCH. SERV., *supra* note 13.
[45] ORG. FOR ECON. CO-OPERATION & DEV., *supra* note 20.
[46] Verma, *supra* note 42.
[47] The Income-tax Rules, 1962, r. 3 and form 12BA (statement of perquisites) (India); The Income-tax Act, No. 43 of 1961, §§ 139, 145 (India).

exclusive access or early product trials, have no obvious market equivalent. Faced with that uncertainty, B may either underestimate the value in order to avoid complexity or omit certain benefits altogether, not out of an intention to evade tax but out of genuine ambiguity.

From the assessing officer's standpoint the difficulty is equally acute. Officers must reconstruct non-cash transactions long after they occur, relying on social media posts, brand disclosures, or incomplete third-party information. There is no standard benchmark against which to test whether the declared value is reasonable, which leads to inconsistent assessments across cases. The absence of structured valuation rules thus burdens compliance and enforcement alike, and shows how a doctrinal gap translates into operational inefficiency.

VI. Intersection with goods and services tax and digital transactions

A. Definition of supply under goods and services tax

Under India's goods and services tax framework, the concept of supply determines what is taxable. Section 7 of the Central Goods and Services Tax Act, 2017 provides that supply includes sale, transfer, barter, exchange, licence, rental, lease, or disposal of goods or services made or agreed to be made for a consideration in the course or furtherance of business.[48] Consideration is separately defined to include payment made in money or otherwise, so that non-monetary consideration falls within the concept.[49] The definition is broad enough that almost any economic activity in which a service or product is exchanged for value falls within the net.

For influencers this raises the question whether in-kind benefits, such as free products or sponsored travel received in return for promotional activity, constitute a supply of services. Influencers are not traditional businesses, but the law treats them as suppliers of service where they undertake promotion for consideration. Because barter and exchange are expressly named in Section 7, and because consideration need not be monetary, a barter-like arrangement linked to business activity can constitute a taxable supply.

Goods and services tax may therefore apply alongside the income-tax provisions, creating dual compliance obligations for influencers. Understanding the meaning of supply is accordingly essential to assessing when registration, invoicing, and payment duties arise in the context of digital promotion.

[48] The Central Goods and Services Tax Act, No. 12 of 2017, § 7 (India).
[49] The Central Goods and Services Tax Act, No. 12 of 2017, § 2(31) (India).

B. Tax on in-kind consideration

Non-monetary benefits received by influencers in exchange for promotional services can qualify as a taxable supply, because consideration under the Act extends to payment made otherwise than in money and because barter and exchange are expressly named among the forms of supply.[50]

The value of such a supply is ordinarily the transaction value, that is the price actually paid or payable, where supplier and recipient are not related and price is the sole consideration.[51] Where consideration is not wholly in money, valuation follows a prescribed sequence: the open market value of the supply; failing that, the sum of the money consideration and the money equivalent of the non-monetary consideration; failing that, the value of a supply of like kind and quality; and, failing all of these, the residual methods.[52] The base thus reflects the economic value of the transaction rather than the physical flow of money. Influencers may consequently need to register, issue invoices, and pay tax even where the benefit is received in kind rather than as cash. Without clear internal accounting and valuation practice, reporting in-kind benefits can become complex and contentious.

Not every influencer must register. The Act sets thresholds for compulsory registration, presently ₹20 lakh of aggregate turnover in most states for a supplier of services and ₹10 lakh in the special category states.[53] Micro-influencers earning below that limit from promotional activity may therefore stand outside the registration requirement, which reduces the administrative burden on them. If, however, they receive high-value benefits in kind, the monetary equivalent counts towards aggregate turnover and may push them across the threshold.[54] Even casual collaboration can thus create liability, which makes it important for influencers to keep records of the estimated market value of all goods and services received.

Where an influencer bears tax on supplies received in kind, the question of input tax credit arises. If a travel brand provides a sponsored trip and charges tax on the service, the influencer may be able to claim credit where the trip is used in the course or furtherance of business, for example for filming content. Eligibility turns on documentation, registration status, proof of business use, and the blocked-credit restrictions.[55] Tracking usage and retaining invoices adds a further layer of difficulty for creators without accounting infrastructure.

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[50] The Central Goods and Services Tax Act, No. 12 of 2017, §§ 2(31), 7 (India).
[51] The Central Goods and Services Tax Act, No. 12 of 2017, § 15(1) (India).
[52] The Central Goods and Services Tax Rules, 2017, r. 27 (India); The Central Goods and Services Tax Act, No. 12 of 2017, § 15(4) (India).
[53] The Central Goods and Services Tax Act, No. 12 of 2017, § 22(1) (India); Notification No. 10/2019-Central Tax (Mar. 7, 2019) (raising the threshold to ₹40 lakh for suppliers engaged exclusively in the supply of goods).
[54] The Central Goods and Services Tax Act, No. 12 of 2017, §§ 2(6), 2(31), 15 (India).

Influencers often work with brands in other states, which engages the inter-state supply rules. Integrated tax then applies, and the influencer must determine the place of supply by reference to the provisions of the Integrated Goods and Services Tax Act, 2017.[56] The exercise is particularly awkward for in-kind benefits such as products shipped from another state or trips spanning several locations. Determining the place of supply, the applicable rate, and the filing requirement can confuse small creators and increase the risk of non-compliance or of dispute over which regime applies.

Accurate record-keeping is therefore critical to compliance where benefits are received in kind. Influencers should record the type, date, source, and estimated value of each item or service, even where no cash changes hands.[57] Without records, authorities may question whether the transaction constitutes a taxable supply and whether tax has been properly discharged.[58] Platforms and brands, moreover, do not always issue invoices for benefits given in kind.

C. Interaction between income tax and goods and services tax

Influencers can face overlapping obligations under Indian law, because a single set of in-kind benefits may attract both income tax and goods and services tax. The overlap is a significant practical problem.

Consider an Indian influencer, A, who has a substantial following on social media and collaborates frequently with brands. A clothing brand sends her free outfits worth ₹50,000 and invites her on an all-expenses-paid trip to a resort in Goa. In return, A posts promotional videos and photographs featuring the brand's products and tags the brand in her content over several weeks.

From an income tax perspective, A has received economic benefits even though no money has changed hands. Under Section 28(iv) the value of any benefit or perquisite arising from business or profession, whether convertible into money or not, is taxable as business income. The difficulty lies in determining the fair market value of the outfits and the resort trip, for which no influencer-specific statutory valuation rule exists. If A estimates the value of the trip differently from the department, a dispute over taxable income follows. The brand's invoice price, the retail price, and a benchmark market rate can each produce a materially different figure, and no settled method governs the choice among them in this digital-economy setting.

[55] The Central Goods and Services Tax Act, No. 12 of 2017, §§ 16, 17(5), 49 (India); The Central Goods and Services Tax Rules, 2017, r. 36 (India).

[56] The Integrated Goods and Services Tax Act, No. 13 of 2017, §§ 5, 7, 12, 13 (India).

[57] The Central Goods and Services Tax Act, No. 12 of 2017, § 35 (India); The Central Goods and Services Tax Rules, 2017, r. 56 (India).

[58] The Central Goods and Services Tax Act, No. 12 of 2017, §§ 35(6), 73 (India).

Under the goods and services tax regime, the same exchange may be treated as a supply of services for consideration, notwithstanding that the consideration is non-monetary, because consideration extends beyond money and barter is expressly within the definition of supply. Since the outfits and the resort stay have an identifiable open market value, that value drives the computation under the prescribed valuation rules, and liability follows if A is required to be registered.[59] The interaction between the two regimes underlines the need for clarity and coordination. Without guidance on valuation, reporting, and set-off, influencers risk non-compliance, dispute, and double counting of taxable benefits. Policy and law must therefore adapt to the realities of the digital economy while preserving fairness and administrative feasibility.

VII. Constitutional and policy considerations

Taxation of non-cash benefits received by influencers raises constitutional and policy questions as well. Under Article 265 of the Constitution of India, no tax may be levied or collected except by authority of law.[60] The principle carries with it an expectation of certainty and fairness: a taxpayer must be able to understand what is taxable and how it is to be computed. Where the law is ambiguous, as it presently is for in-kind benefits received by digital creators, that expectation is strained. Without clear statutory rules for valuing products, travel, or services received in exchange for promotion, influencers are left to guess, and the authority of law that Article 265 requires becomes formal rather than real.

Equally important is the principle of equity. Income tax is meant to capture economic gain fairly, whatever its form, though a receipt must first answer the description of income before it can be brought to charge.[61] Traditional employees with structured perquisites benefit from well-defined valuation rules, while influencers operate in a largely unregulated space where benefits are varied and intangible. The result is unequal treatment, which raises policy concerns about fairness and the consistent application of tax law. Influencer marketing meanwhile plays a substantial role in commerce, shaping consumer behaviour and contributing to economic activity, and excessive complexity or unclear rules may discourage participation or encourage underreporting, reducing revenue collection and undermining the objectives of the law.

A further constitutional aspect concerns the right to equality under Article 14, which implies that taxpayers in similar circumstances should be treated consistently.[62] In the influencer

[59] The Central Goods and Services Tax Act, No. 12 of 2017, §§ 2(31), 7, 15 (India); The Central Goods and Services Tax Rules, 2017, r. 27 (India).
[60] India Const. art. 265.
[61] *Vodafone India Services Pvt. Ltd. v. Union of India*, (2014) 368 ITR 1 (Bom.) (India).
[62] India Const. art. 14.

ecosystem, the absence of structured rules for valuing in-kind benefits creates disparities. Two creators performing similar promotional activity might be assessed differently on the basis of subjective valuation methods or inconsistent administrative decisions. Such uneven treatment raises concerns of equity and fairness and invites constitutional challenge.

From a policy perspective, administrative feasibility is no less critical.[63] Tax authorities face significant difficulty in tracking countless small-value transactions between brands and influencers, often spanning several platforms. Without streamlined reporting or simplified thresholds, the compliance burden on government and creators alike becomes high. That raises a question of proportionality: enforcement mechanisms should balance revenue collection against practical administrative capacity, so that the law can be implemented without overburdening either side.

The policy objective of fostering innovation also intersects with constitutional fairness. Influencer marketing drives economic activity, particularly for small creators and start-ups, yet rigid or ambiguous tax rules may discourage participation or push creators towards informal arrangements.[64] If valuation methods are unclear, influencers may underreport in order to avoid disputes, creating compliance risk and revenue leakage. Excessive complexity, conversely, could stifle digital entrepreneurship.

Transparency and predictability are, finally, essential constitutional and policy considerations. The ambiguities in Sections 28(iv) and 194R leave influencers unsure of their obligations and invite dispute and appeal that neither taxpayer nor administration is well placed to absorb.[65]

VIII. CONTEMPORARY DEVELOPMENTS

Governments are beginning to recognise that new forms of work mediated by online platforms generate significant economic value that must be taxed fairly.[66] The Pillar One workstream at the ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT, for instance, seeks to reallocate taxing rights so as to capture revenue from digital and cross-border activity, on the footing that traditional permanent establishment rules are inadequate to the modern economy.[67] That international context matters for India, where many influencers collaborate with global brands and receive in-kind benefits from outside the country.

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63 ORG. FOR ECON. CO-OPERATION & DEV., *supra* note 20.

64 U.N. CONF. ON TRADE & DEV., *Digital Economy Report 2021: Cross-Border Data Flows and Development* (2021).

65 Verma, *supra* note 42.

66 ORG. FOR ECON. CO-OPERATION & DEV., *Tax Challenges Arising from Digitalisation: Report on the Pillar One Blueprint* (2020).

67 ORG. FOR ECON. CO-OPERATION & DEV., *supra* note 66.

Within India, the digital creator ecosystem continues to expand. Influencer campaigns are now a standard part of brand strategy, and millions of creators shape consumer decisions.[68] The existing framework nonetheless leaves gaps in valuation and reporting.

Monetisation models are diversifying as well. Influencers now earn not only through sponsorships or free products but through affiliate marketing, platform-based monetisation, subscriptions, and collaborations.[69] Each model raises distinct questions, such as how to assign value to early-access products, digital gifts, or token-based payments.[70] The complexity strengthens the case for consistent valuation standards and administrative guidance.

Looking ahead, the challenges are likely to intensify as new forms of digital value emerge. Creators are increasingly rewarded through platform-specific tokens, virtual gifts, algorithm-based bonuses, early-access digital assets, and other non-traditional incentives.[71] Such forms of value may fluctuate rapidly, lack a stable market price, or derive worth primarily from a platform ecosystem rather than from an open market. Existing tax principles assume that income crystallises at a determinable point and can be measured with reasonable certainty. Digital rewards, by contrast, blur the line between potential value and realised gain, which raises difficult questions about when income arises and at what stage taxation should occur. Applying conventional valuation logic to such benefits risks either premature taxation or complete exclusion from the tax net. This mirrors the concern in earlier jurisprudence that the absence of a workable computation mechanism undermines the legitimacy of the levy itself. As influencer monetisation evolves, tax policy must move beyond reactive clarification and anticipate how digital value is created, transferred, and realised. Without forward-looking guidance, future disputes are likely to shift from disagreements about valuation to fundamental questions about income recognition in the digital economy.

Emerging trends also point to the need for interdisciplinary approaches. Law, economics, and technology intersect as digital work grows more sophisticated, and policymakers must weigh practical enforceability, technological tools for tracking transactions, and incentives for voluntary compliance. International examples, including the British treatment of non-cash perks as taxable benefits in kind and the United States requirement to bring the fair market value of

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[68] BOSTON CONSULTING GRP., *supra* note 5.
[69] ERNST & YOUNG & BIG BANG SOCIAL, *supra* note 9.
[70] Sara Alida Volkmer & Martin Meißner, *Beyond Livestreaming: The Rise of Social Media Gifting and Paid Memberships: A Systematic Literature Review and Future Research Agenda*, 185 J. BUS. RSCH. 114915 (2024).
[71] Volkmer & Meißner, *supra* note 70.

goods received through barter into gross income, show that clear rules and objective valuation methods reduce disputes and improve revenue collection.[72,73]

IX. Analysis and recommendations

In the influencer context, the diversity of benefits, ranging from free products to sponsored trips, makes objective computation difficult. Without guidance, influencers risk underreporting income and tax authorities face enforcement difficulty. Current rules also provide no practical method for valuing cross-border in-kind benefits, which invites dispute and non-compliance. The dual obligations under the goods and services tax and income tax add a further compliance burden, since barter-like transactions must be assessed as a supply of services while simultaneously being treated as taxable income.

Several measures would address these difficulties.

First, a standardised framework for calculating and reporting fair market value should be introduced. It could assign retail prices or market benchmarks for product-based perks, use average hotel or service rates for sponsored trips, and specify monetary equivalence for digital tokens or points. A uniform reporting format, in the nature of a non-cash benefit ledger, would let influencers declare the type, date, and estimated value of each benefit, providing clarity and an audit trail. A tamper-evident, distributed record of perks could further improve transparency and simplify compliance for creators and authorities alike.

Second, a threshold-based simplified compliance mechanism should be developed for micro-influencers, who contribute economically but often lack accounting infrastructure. Those receiving benefits below a modest annual figure, such as ₹50,000, could file a single consolidated declaration instead of detailed periodic returns.

Consider a college student running a niche Instagram page who receives occasional free products or discounted services worth ₹30,000 to ₹40,000 in a year. Requiring that individual to maintain detailed books of account, obtain a professional valuation, and comply with periodic reporting imposes a burden disproportionate to the revenue involved. A consolidated annual declaration, similar to a simplified return, would allow micro-influencers to disclose the total value of benefits received in good faith while enabling authorities to capture economic activity without excessive enforcement cost. The approach would also encourage voluntary compliance by reducing fear and confusion, so that small creators are not pushed into non-compliance by procedural complexity alone. By reserving stricter reporting and valuation requirements for

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72 HM Revenue & Customs, *supra* note 34.

73 Internal Revenue Serv., *Topic No. 420, Bartering Income*.

higher-earning influencers, the system can balance administrative efficiency against equity and align enforcement intensity with actual economic capacity.

A digital compliance portal could further automate the calculation of fair market value and pre-fill returns, reducing administrative burden and disputes.

Third, coordination between the goods and services tax and income-tax rules is essential to avoid double counting of taxable value. A unified valuation method, single-point reporting by brands summarising both the deduction at source and the indirect tax consequences, and an optional mechanism to offset tax already paid would harmonise the obligations. A joint compliance utility certified by the CENTRAL BOARD OF DIRECT TAXES and the CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS could compute both liabilities together, so that creators are not penalised for the complexity of modern monetisation models.

From a policy perspective, India can also draw on comparative practice. The United Kingdom and Australia provide structured methods for valuing non-cash benefits, which reduces ambiguity and improves compliance. Adopting similar principles would enhance both revenue collection and taxpayer certainty.

X. CONCLUSION

The rise of digital influencers has created a form of economic activity that challenges traditional tax frameworks. In-kind benefits, including free products, sponsored trips, event access, and other non-cash perks, carry significant economic value but are difficult to quantify under existing Indian tax law. Sections 28(iv) and 194R of the Income-tax Act, 1961 recognise that such benefits are taxable, yet neither supplies clear guidance on valuation, reporting, or computation.[74] The interaction with the goods and services tax adds a further layer of complexity, because a barter-like exchange may simultaneously constitute taxable income and a supply of services.

The judicial principle drawn from *Commissioner of Income Tax v. B.C. Srinivasa Setty*, that a charge cannot be enforced where the computation machinery cannot be worked, applies with force to the influencer economy.[75] It exposes the gap between law and practice in a field where benefits are varied, often intangible, and sometimes cross-border. Without clear statutory or administrative guidance, taxpayers and authorities alike face uncertainty, which creates compliance risk and invites dispute.

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[74] The Income-tax Act, No. 43 of 1961, §§ 28(iv), 194R (India).
[75] *B.C. Srinivasa Setty*, *supra* note 28.

Three reforms follow. The first and most immediate is the issuance of comprehensive guidelines by the CENTRAL BOARD OF DIRECT TAXES on the valuation of non-monetary benefits, specifying standard valuation methods. The second is a threshold-based simplified compliance regime for small and micro-influencers: a presumptive or simplified reporting mechanism, similar in spirit to existing small-taxpayer schemes, would allow influencers below a specified income or benefit threshold to comply through standardised disclosure without complex valuation exercises. The third is coordination between the income-tax and goods and services tax frameworks to prevent inconsistent valuation and unintended double taxation, so that the same non-cash transaction is not valued differently under the two statutes and tax is imposed in a manner reflecting real economic gain rather than formal characterisation. The hobby and business distinction test proposed above should be adopted alongside these measures.

India can draw valuable lessons from comparative practice, particularly from the United Kingdom and Australia, where non-cash benefits are taxed through structured valuation rules and clear reporting obligations. Those systems demonstrate that clarity, objectivity, and administrative feasibility are central to achieving tax equity in emerging forms of work. By adapting these principles to India's digital economy, policymakers can ensure that influencer taxation evolves in a manner that is constitutionally sound, economically fair, and practically enforceable, without stifling innovation or placing undue burdens on creators.

Taxing influencers' in-kind benefits is not merely a technical question; it is a policy challenge that reflects the evolving digital economy. Clear rules, practical valuation methods, and coordinated administration will ensure that influencers are taxed fairly, that revenue is protected, and that the law keeps pace with modern economic realities. This paper accordingly argues for a forward-looking approach in India, bridging doctrinal principle and contemporary economic practice.

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