

GST - CLASSIFICATION PRINCIPLES

CA Ashish Chaudhary

COVERAGE TODAY

- Some basics
- Rules of classification
- Non-statutory principles
- What is required to properly classify
- Aids in classification

SOME BASICS

- What is classification?
 - Categorization under specific heading/description/category
- Why classification?
 - Once test of supply is fulfilled – duty liable to be paid ?
 - Classification of goods to find out rate and next valuation
 - Eligibility of exemptions
 - Eligibility of ITC
- GST linked to Cus Tariff
- HSN – Harmonized System Nomenclature

CUS TARIFF

- **Contains:** Two schedules (first – import, second – export)
- **First schedule:** 21 Sections + 98 Chapters
 - **Sequence:** Natural products, raw materials, semi finished goods and fully finished goods/article / machinery etc.,
 - Tariff structure
 - Sections + Section Notes
 - Chapters + Chapter notes
 - Headings

Notifications of Service Tax

PART - II Import Tariff

Chapters	Commodities
SECTION I. LIVE ANIMALS, ANIMAL PRODUCTS	
Chapter 1	Live animals
Chapter 2	Meat and edible meat offal
Chapter 3	Fish and crustaceans, molluscs and other aquatic invertebrates
Chapter 4	Dairy produce; birds' eggs; natural honey; edible products of animal origin, not elsewhere specified or included
Chapter 5	Products of animal origin, not elsewhere specified or included.
SECTION II. VEGETABLE PRODUCTS	
Chapter 6	Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage
Chapter 7	Edible vegetables and certain roots and tubers
Chapter 8	Edible fruit and nuts; peel of citrus fruits or melons
Chapter 9	Coffee, tea, mate and spices
Chapter 10	Cereals
Chapter 11	Products of the milling industry; malt; starches; inulin; wheat gluten.
Chapter 12	Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial or medicinal plants; straw and fodder.
Chapter 13	Lac; gums, resins and other vegetable saps and extracts.
Chapter 14	Vegetable plaiting materials; vegetable products not elsewhere specified or included.
SECTION III. ANIMAL OR VEGETABLE FATS AND OIL AND THEIR CLEAVAGE PRODUCTS; PREPARED EDIBLE FATS; ANIMAL OR VEGETABLE WAXES	
Chapter 15	Animal or vegetable fats and oil and their cleavage products; prepared edible fats; animal or vegetable waxes
SECTION IV. PREPARED FOOD STUFFS, BEVERAGES, SPIRITS AND VINEGAR, TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES	

BASICS (CONTD..)

- **Section:** Group consisting of no of chapters codifying particular class of goods. Eg: [Sec VII.pdf](#)
- **Section Notes** explains the scope of chapters / headings, etc.,
- **Chapter:** Category in such section Eg: Plastics
- **Chapter Notes:** Explains the scope of chapter/ Sub-headings etc., + definitions

BASICS (CONTD..)

- Structure of Tariff

12 Chapter

12 34 Heading

12 34 56 Subheading

12 34 56 78 Tariff Item

- Example: 39 01 10 10

Tariff Item	Description of goods	Unit	Rate of duty	
			Standard	Preferential Areas
(1)	(2)	(3)	(4)	(5)
3901	I. PRIMARY FORMS			
	POLYMERS OF ETHYLENE, IN PRIMARY FORMS			
3901 10	- <i>Polyethylene having a specific gravity of less than 0.94 :</i>			
3901 10 10	--- Linear low density polyethylene (LLDPE)	kg.	10%	-
3901 10 90	--- Other	kg.	10%	-
3901 20 00	- Polyethylene having a specific gravity of 0.94 or more	kg.	10%	-
3901 30 00	- Ethylene-vinyl acetate copolymers	kg.	10%	-
3901 90	- <i>Other:</i>			
3901 90 10	--- Linear medium density polyethylene (LMDPE)	kg.	10%	-
3901 90 90	--- Other	kg.	10%	-

- Structure of Chapter – 5 columns (i) tariff item (ii) description of goods (iii) unit (iv) Standard rate of duty (v) Pref. rate of duty

SECTION-VII

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CHAPTER-39

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RULES OF CLASSIFICATION (GIR)

Rule	Used in case where	To be classified
1	Titles of Sec, Ch, Headings etc., V. Description, Sec/Ch notes	Section/chapter notes
2	a) Incomplete or unfinished having essential character of finished article Eg: Car without seats + SKD/CKD goods	Tariff of finished article – functional test relevant?
	b) Combination or mixture of materials	As per Rule 3
3	Goods are classifiable under more than one tariff headings	Specific description over general
	Mixture of different materials Eg: Pencil with eraser	Material which gives essential character
	Cannot be classified under (a) or (b)	Last in numerical order
4	Cannot be classified under above rules Eg: Plastic films used against the sun light	Most akin
5	a) Special cases – Articles suitable for long-term use and presented with articles for which they are intended	Classified with such articles when sold
	b) Packing materials presented with the goods	Classified with the goods with which they are sold
6	Comparison of tariff headings	At same level

GIR (CONTD...)

- Rules to be applied sequentially
- Section Notes v. Chapter Notes?
- Coding of dashes
 - Single dash (-) indicates group
 - Two dashes (--) indicates sub-group
 - Three/four dashes (--- or ----) indicates sub-group either -- or -- dash which immediately preceding it

NON-STATUTORY PRINCIPLES

- Burden of proving that a particular goods fall in a particular entry will be on the Department
- Trade & expressions used in Tariff have to be understood by their popular meaning i.e. meaning attached by those using the product, and not in Technical sense
- Commercial parlance test is the best test for classification, when not artificially defined by law.
- ISI specification is not ignorable in the absence of any material.

NON-STATUTORY PRINCIPLES

- Reference to a dictionary meaning is not safe when there is no definition in the statute for ascertaining the meaning of tariff entry. The correct guide would be trade parlance.
- In case of doubt, HSN is a safe guide for ascertaining true meaning of any expression used in the Act, unless there is an express different intention indicated in the tariff itself.
- If entries in HSN and tariff are not aligned
 - reliance cannot be placed on HSN for classification of goods

NON-STATUTORY PRINCIPLES

- If a tariff heading is specifically mentioned in exemption notification, the Section notes, chapter notes, GIR etc., will apply Eg: parts falling under 84
- Tariff + exemption notification descriptions are different – Section notes, chapter notes, GIR etc., will not apply
- Exemption notification cannot change the classification

WHAT IS REQUIRED TO PROPERLY CLASSIFY?

Questions to ask:

- What is the product called?
- What does it do? - Functionality
- How does it work? -
- How is it used? – Usage test
- In what industry it is used? (commercial, industrial, home) – Perception of customer

WHAT IS REQUIRED TO PROPERLY CLASSIFY?

Information required to classify:

- Detailed description of the product, plus samples, sketches, diagrams, illustrative materials, brochures etc.,
- Components and its proportion (value, Qty, functionality etc.,)
- Primary use in the industry
- Commercial, scientific, or common designation

AIDS IN CLASSIFICATION

- Support is available from:
 - Section Notes, Chapter Notes, Tariff description
 - Rules of Interpretation
 - Court rulings while ensuring the amendments + context relevance
 - AAR + Govt. circulars
 - HSN explanatory notes
 - Commodity index in the CENTAX publications – find out relevant chapter
 - GST/Customs website/App
 - Internet

CAUTION

- Classification is an art, not a science
- It is subject to interpretation, court cases, and precedents
- Classification expertise is built over time
- Easy to have a “misclassification”



CLASSIFICATION UNDER GST

- The contents of the GST rate Schedule for Goods is as under;

S. No	Schedule	Rate of CGST	No. of Categories of items covered
01	Schedule I	2.50%	263
02	Schedule II	6.00%	242
03	Schedule III	9.00%	453
04	Schedule IV	14.00%	228
05	Schedule V	1.50%	18
06	Schedule VI	0.125%	3

The GST rate Schedule contains the broad description of the goods and service. The Schedule for goods covers 1207 items.