

Chapter 4

Classification of Goods

1. Introduction:

- 1.1 Import and export of goods are required to be assessed to duty which may include an assessment of nil duty. For this purpose, it is necessary to determine the classification of the goods, which basically means the categorization of the goods in a specific heading of the Schedules to the Customs Tariff Act, 1975.
- 1.2 Classification of imported/export goods is governed by the Customs Tariff Act, 1975 which contains two Schedules. The First Schedule specifies the nomenclature that is based on the Harmonized Commodity Description and Coding System generally referred to as "Harmonized System" or simply "HS", developed by the World Customs Organization (WCO) which is applied uniformly by more than 137 countries the world over. The Second Schedule contains description of goods chargeable to export duty. As the nomenclature also specifies the Customs duty rates (Tariff), it is called the 'Indian Customs Tariff' or 'Tariff Schedule'.

2. Methodology of classification:

- 2.1 In the Tariff Schedule, commodities/products are arranged in a fixed pattern with the duty rates specified against each of them. The pattern of arrangement of goods in the Tariff is in increasing degree of manufacture of commodities/products in the sequence of natural products, raw materials; semi finished goods and fully finished goods/article / machinery, etc. The Indian Customs Tariff has 21 Sections and 98 Chapters. Section is a group consisting of a number of Chapters which codify a particular class of goods. The Section notes explain the scope of chapters / headings, etc. The Chapters consist of chapter notes, brief description of commodities arranged at four digit, six digit and eight digit levels. Every four-digit code is called a 'heading' and every six digit code is called a 'subheading' and 8-digit code is called a 'Tariff Item'.
- 2.2 The Harmonized System (HS) provides commodity/product codes and description up to 4-digit (Heading) and 6-digit (Sub-heading) levels only and member countries of WCO are allowed to extend the codes up to any level subject to the condition that nothing changes at the 4-digit or 6-digit levels. India has developed 8-digit level classification to indicate specific statistical codes for indigenous products and also to monitor the trade volumes.
- 2.3 The HS is amended periodically in a review cycle of 4/6 years, taking note of the trade flow, technological progress, etc. After the HS came into effect on 1.1.1988, it was amended in 1992, 1996, 2002, 2007 and 2012. Member countries including India are under obligation in terms of International Convention on Harmonized System to amend their Tariff Schedules in alignment with HS. Therefore, the classification of some commodities/products may change over a period of time. Those involved in the negotiation of international commercial arrangements, multilateral tariff agreements etc. should refer to correlation tables showing the transposition of sub-headings from older version to the newer and the newer to the older version of the HS.
- 2.4 For purposes of uniform interpretation of the HS, the WCO has published detailed Explanatory Notes to various headings/subheadings. This forms the basis for interpreting

the HS. The WCO, in its various committees discusses the classification of individual products and gives classification opinion on them. Such information, though not binding in nature provides a useful guideline for classifying goods.

- 2.5 The process of arriving at a particular heading/subheading code, either at four digit, six digit or eight digit level for a commodity in the Tariff Schedule is called 'classification'. The titles of Sections, Chapters and Sub-chapters are provided for ease of reference only. For legal purposes the texts of the Section Notes, Chapter Notes, Subheading Notes, Supplementary Notes, Headings, Subheadings, and the General Rules for Interpretation of Import Tariff (GIR) should be relied upon to determine the classification of an item. Classification helps in determining the rate of duty leviable. The Indian Customs Tariff provides specific headings for goods imported under Project Import Scheme, goods imported by post and goods imported as baggage in Chapter 98 under which they will be classified straightaway even though they may be covered elsewhere.
- 2.6 The GIR is a set of 6 rules for classification of goods in the Tariff Schedule. These rules have to be applied sequentially. Rule 1 gives precedence to the Section notes/Chapter notes while classifying a product. Rule 2(a) applies to goods imported in incomplete / finished condition and assembled / unassembled condition. Rule 2(b) is applicable to 'mixtures' and 'composite goods'. Goods which cannot be classified by application of Rule 2(b), will be classified by application of Rule 3 i.e. by application of 'most specific description' as per Rule 3(a) or by ascertaining the 'essential character' of the article as per Rule 3(b) or by taking into consideration the heading that occurs last in the numerical order as per Rule 3(c). Rule 4 states that goods which cannot be classified by application of the preceding rules may be classified under the heading appropriate to the goods to which they are most akin. Rule 5 applies to packing materials / articles in which the goods are carried. Rule 6 is applied to arrive at the appropriate subheading within a heading and for that purpose the provisions of Rules 1 to 5 apply *mutatis mutandis* on the understanding that subheadings at the same levels are comparable. For the purpose of Rule 6 the relative Section and Chapter Notes also apply unless the context otherwise requires.
- 2.7 While classifying goods, the foremost consideration is the 'statutory definition' and any guideline provided by HS Explanatory Notes. In their absence, the cardinal principle would be the way goods are known in 'common parlance'. Many times statutes contain definitions and meanings of only a restricted number of words, expressions or phrases. Therefore, while interpreting the common words used in the statute, giving more than due importance to common dictionary meanings may be misleading, as therein all shades of meaning of a particular word are given. Similarly, meanings assigned in technical dictionaries will have limited application.
- 2.8 For purposes of classification the 'trade meaning' is given due importance unless the Tariff itself requires the terms to be interpreted in a strict technical sense in which case technical dictionaries should be used. If any scientific test is to be performed, the same must be carried out as prescribed to arrive at the classification of goods. The common dictionary meaning of technical words should not be accepted in such cases since normally, the common parlance understanding is indicative of the functional character of the goods. Further, in matters of classification the quality of goods, whether prime or defective is not material. There is no prohibition on revising the classification once decided. However

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revision should be only done for good and sufficient reasons. In case of difficulty in understanding the scope of the headings / subheadings, reference should invariably be made to supplementary texts like the Explanatory Notes to the HS.

- 2.9 The rate of duty specified in the Tariff Schedule is called 'Tariff rate of duty'. Goods which are not levied concessional rate of duty or exempted from duty by an exemption notification issued under the Customs Act, 1962 are levied the Tariff rate of duty. The Export Tariff Schedule mentions only the commodities on which export tariff is levied. Likewise the Central Excise Tariff prescribed Excise duties against each subheading, which is relevant for the purpose of computing the Additional Duty of Customs. Goods which are prescribed 'nil' rates of duty in the Tariff are those goods which are levied to 'free' rates of duty.
- 2.10 Board issues Tariff Advices in the form of circulars to ensure uniformity in classification of goods at an All India level. Such issues also get discussed and resolved in the periodic Conferences of Chief Commissioners/Commissioners of Customs on Tariffs and Allied Matters. An Advance Ruling Authority gives binding tariff advise to applicants.
- 2.11 Permissibility of import and export of goods is governed by the DGFT's ITC(HS) Classification of Import and Export Goods. This nomenclature arranges goods as in the HS but codifies them by ten digit numerical codes for precision in import / export control.
