



# CLASSIFICATION OF GOODS

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## INTRODUCTION

**Hello Friends,**

There are thousands of varieties of manufactured goods and all goods cannot carry the same rate or amount of duty. It is also not possible to identify all products individually. It is, therefore, necessary to identify the numerous products through groups and sub-groups and then to decide a rate of duty on each group/sub-group

### Need of Classifications

**Classification has a vital role in Excise & Customs. It is needed for following reasons.**

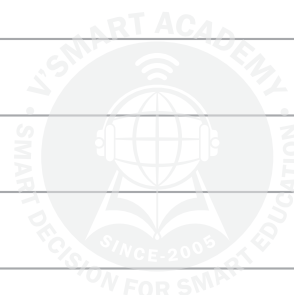
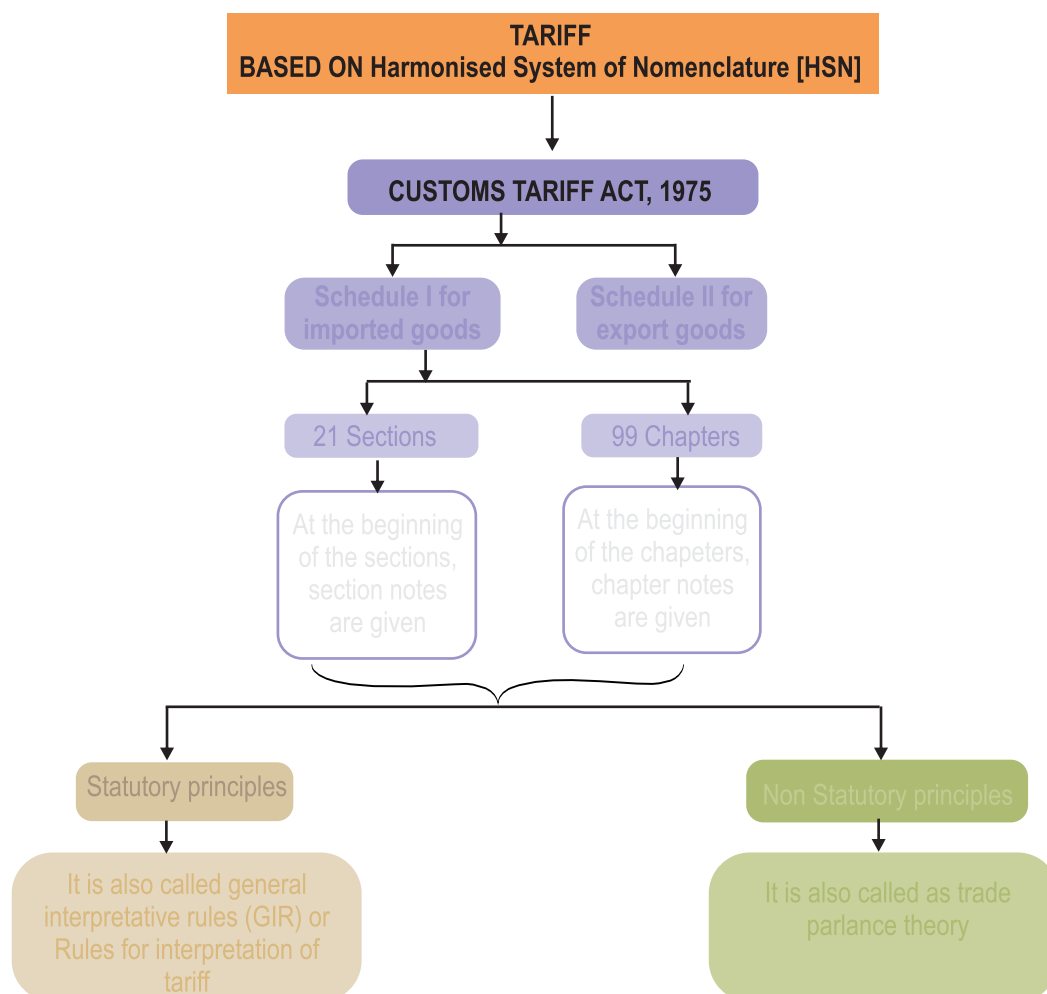
- Determination of rate of duty :** The actual amount of custom duty payable on imported/exported goods is, inter alia, dependent upon the rate of duty. The rate of duty is determinable on the basis of classification of goods.
- Determination of eligibility of exemption :** The classification of goods is also required to be decided for the purpose of determining eligibility to exemptions, most of which are with reference to the Tariff headings or sub headings.



### Tutorial Notes

For the purpose of classification of goods, the nomenclature, character and function of the product is required to be determined and thereafter the product may be identified accordingly with one or the other headings or subheadings with reference to relative section Notes and Chapter Notes and Rules of Interpretation. If product is not classifiable as above, then it will be classifiable on the basis of non statutory principle i.e. popular meaning or commercial parlance or trade understanding.

**Structure of Central Excise Tariff Act, 1985 and Custom Tariff Act, 1975 is almost same. Hence it is an Common Topic for Excise and Customs.**



**PREPARED FOODSTUFFS; BEVERAGES, SPIRIT AND VINEGAR; TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES**

**Notes:** In this section the expression, "Unit container" means a container, whether large or small (for example, tin, can, box, jar, bottle, bag or carton, drum, barrel or canister) designed to hold a predetermined quantity or number.

**CHAPTER 17 Sugars and sugar confectionery**

- Notes:**
- This Chapter does not cover:
    - Sugar confectionery containing cocoa (heading 1806)
    - Chemically pure sugars (other than sucrose, lactose, maltose, glucose and fructose) or other products of heading 2940; or
    - Medicaments or other products of Chapter 30.

**SUB-HEADING NOTES**

- For the purposes of sub-headings 1701, 12, 1701 13 and 1701 14 "Raw Sugar" means sugar whose content of sucrose by weight, in dry state, corresponds to a polarimeter reading of less than 99.5 degree.
- Sub-heading 1701 13 covers only cane sugar obtained without centrifugation, whose content of sucrose by weight, in dry state, corresponds to a polarimeter reading of 69° or more but less than 93°. The product contains only natural anhydrous microcrystals, of irregular shape, not visible to the naked eye, which are surrounded by residues of molasses and other constituents of sugar cane.

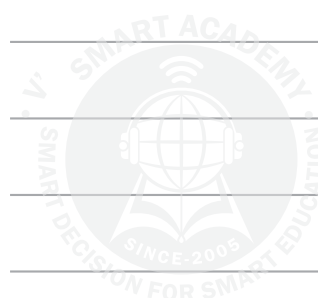
Tariff Item		Description of goods	Unit	Rate of duty	Preferential rate
(1)		(2)	(3)	(4)	
1701		CANE OR BEET SUGAR AND CHEMICALLY PURE SUCROSE, IN SOLID FORM			—
	-	Raw sugar not containing added flavouring or colouring matter :			—
1701 12 00	--	Beet sugar	kg.	100%	—
1701 13	--	Cane sugar specified in Sub-heading Note 2 to this Chapter:			—
1701 13 10	---	Cane jaggery	kg.	100%	—
1701 13 20	---	Khandsari sugar	kg.	100%	—
1701 13 90	---	Other	kg.	100%	—
1701 99	-	Other:			—
1701 99 10	---	Sugar cubes	kg.	100%	—
1701 99 90	---	Other	kg.	100%	—

**Examination Questions**

**Q1. What are the four column heading of the Central Excise Tariff Schedules? (Nov 2006, 3 marks)**

**Ans.**

Columns in Central Excise Tariff Act, 1985 (CETA) = 4		Columns in Customs Tariff Act, 1975 (CTA) = 5	
(1) Tariff	Eight Digit Description.	(1) Tariff	Eight Digit Description.
(2) Description of Goods	Names and Classifications	(2) Description of Goods	Names and Classifications
(3) Units	Kilograms, Metres, Units, Litres, etc.	(3) Units	Kilograms, Metres, Units, Litres, etc.
(4) Rate of Duty	10%, 4%, Nil, etc	(4) Rate of Duty	10%, 4%, Nil, etc
		(5) Preferential Area	10%, 4%, Nil, etc







## General Rules of Interpretation (G.R.I.)

### Rule 1: Title of sections & chapters are only for reference

- ➔ The titles of sections & chapters are provided for ease of reference only.
- ➔ For legal purposes, classification shall be determined according to
  - ... the terms of the headings and
  - ... any relative Sections & Chapters note,
 and, provided such headings or Notes do not otherwise require, according to the following provisions



#### Tutorial Notes

Where such Headings or Notes are not suffice to clarify the scope of heading, then classification shall be determined according to other rules

### Rule 2: Classification of incomplete/unfinished goods & mixture/combination of material and substances

#### (a) Classification of incomplete/unfinished goods or CKD/SKD

Any reference in a Heading to an article shall be taken to include

... that article incomplete or unfinished, if, as presented,

**Note :** The incomplete or unfinished article has the essential character of the complete or finished article.

Any reference in a Heading to an article shall be taken to include

...that article complete or finished presented unassembled or disassembled.

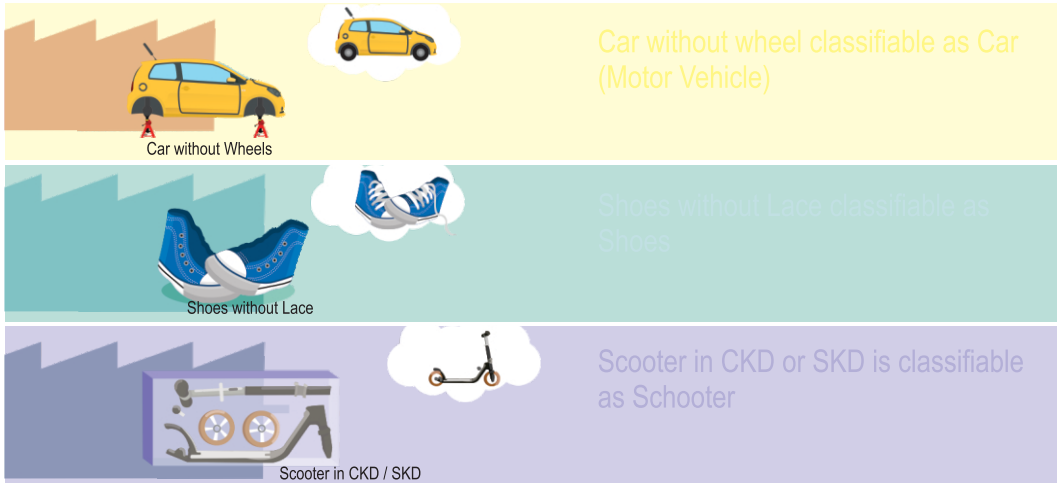


#### Tutorial Notes

1) In simple words

- ➔ **Incomplete or unfinished goods** - Classifiable in the heading of completed goods.
- ➔ **Unassembled or disassembled goods** - Classifiable in the heading of complete or finished goods.




## Examples of Rule 2 (a)



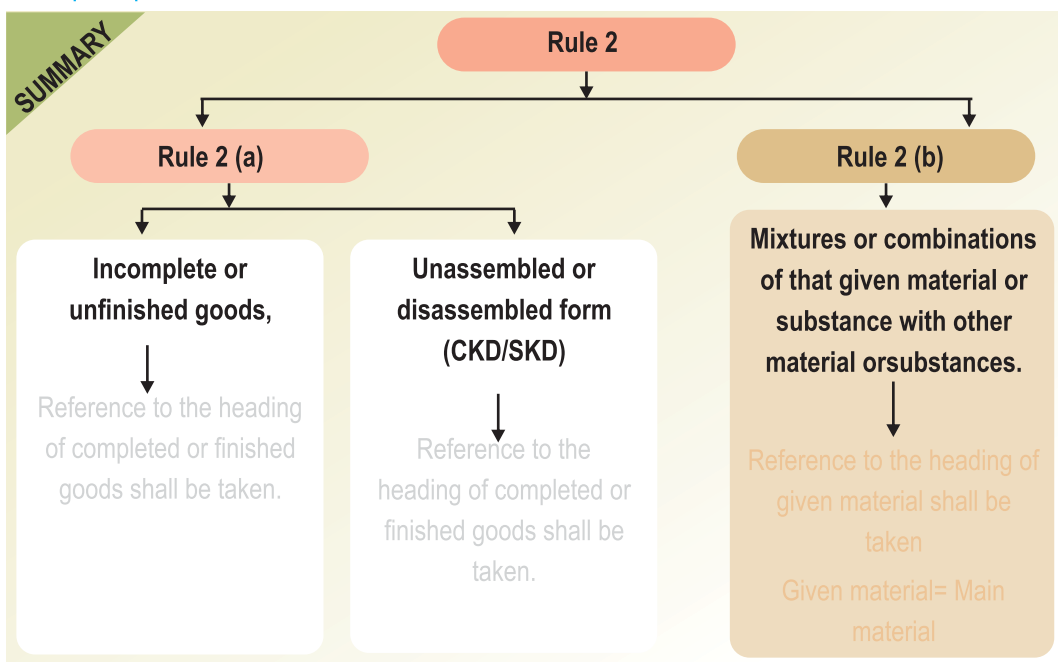
### (b) Classification of mixture or combinations

Any reference in a Heading to an article shall be taken to include

... mixtures or combinations of that material / substance with other materials/substances.

	Description of Heading	By virtue of Rule 2(b), this heading will cover
	Pencil	Pencil with Eraser
	Coffee	Coffee mixed with Chicory * [Chicory = it is coffee substitute]
	Kitchen / Household Articles of Steel	Mug of stainless steel with a plastic handle (as it retains the character of a table, kitchen or other household article of steel).

The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3







### Rule 3: Classification of goods in case of two or more headings.

When by application of rule 2 (b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:

(a) **Specific Rules** : The heading which provides the most specific description shall be preferred to headings providing a more general description.

	Product	Available headings	Classification
	Name plate	a) Accessories of motor vehicle b) Article of plastics	Accessories of motor vehicle
	VIP bag	a) Plastic Article b) Suitcase	Suitcase

However, when two or more headings each refer to part only of the materials or substances contained in

**mixed or composite goods or to part only of the items in a set**

put up for retail sale,

those headings are to be regarded as **equally specific** in relation to those goods, even if one of them gives a more complete or precise description of the goods.

Rule 3(a) not applicable to

**Mixed**

Book with CD



**Composite Goods**

Printer with Scanner



**Items in a set**

Pencil, sharpener, design instruments





(b) **Characteristic Rules** : Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a),

**shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.**

	Product	Available headings	Classification
	Book with CD	1) Book 2) CD	Classification as Book
	Pen Stand with Clock	a) Pen Stand b) Clock	Classification as Pen Stand
	Printer with Scanner	a) Printer b) Scanner	<b>"Classification as a printer"</b> Multi-functional machine/ Combination machine shall be classified according to its main function [Circular No 45/98]
	Drawing Instrument with Pencil etc.	a) Drawing Instrument b) Pencil c) Sharpener	Classification as Drawing Instrument
	Mobile phone with alarm, camera etc.	a) Mobile Phone b) Music Player c) Alarm d) Calculator etc.	<b>"Classification as Mobile phone"</b> Mobile phone with additional features like radio receivers, music players, calculators, alarm, camera etc. is still mobile handset as principal function continues to be telephony [Circular No 45/98]

(c) **Latter is better**: When goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

	Product	Available headings	Classification
	Electrical Insulating self adhesive Tape	1) Self Adhesive Tape (39.19) 2) Electric Insulator (85.46)	It shall be classified as Electrical Insulator [Tapex Corporation-1998-TRI]
	Motor Vehicle use for transport of passenger & goods both	1) Motor Vehicle design for transport of passenger (87.03) 2) Motor Vehicle design for transport of goods. (87.04)	It shall be classified as Motor Vehicle design for transport of goods [Mahindra&Mahindra 1999]

**SUMMARY**

**(a) Specific Rules**

Heading which provides more specific description shall be preferred over the heading providing general description.

If goods is not classified as per Rule → 3(a) then apply 3(b)

**RULE 3**

**(b) Characteristic Rules**

It mixture consists of different material or components then it shall be classified in the heading of that material or components which gives them their essential character.

If goods is not classified as per Rule → 3(b) then apply 3(c)

**(c) latter is better**

If two or more heading appear to be equally specific, then the heading which appears last in numeric order is to be preferred

## Rule 4 Akin Rule

Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin.



**Product** : Plastic film used to filter or remove the glare of the sun light - pasted on Car Glass windows, window panes, etc.

**Classification** :

- There is not specific entry in the Schedule for the product.
- However, there exists one Heading 39 25 which cover Builder Wares of plastic - shutters, blinds etc.
- the product which is most akin to plastic blinds and hence, by application of Rule 4, It can be classified under Heading 39 25.



## Rule 5 Classification of Cases and Packing Material

### Rule 5 (a)

Camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers;

- ➔ Specially shaped or fitted to contain a specific article or a set of articles
- ➔ Suitable for long term use &
- ➔ Presented with the articles for which they are intended.
- ➔ Normally sold with article

shall be classified with such articles when of a kind normally sold therewith.



**Note :** This rule does not, however, apply to containers which give the whole its essential character;



Gold Case for Cigarette

It is to be classified as article of gold.

### Rule 5 (b)

subject to the provisions of (a ) above, packing materials and packing containers presented with the goods therein

shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provision does not apply when such packing materials or packing containers are clearly suitable for repetitive use.



### Conclusion :

Rule 5(a) is not applicable to  
(a) abnormal packing and  
(b) durable and returnable packing

## Rule 6 - Classification in Sub headings

For legal purposes, the classification of goods in the sub-headings of a heading shall be determined according to

- ➔ the **terms of those sub-headings** and
- ➔ any **related sub-heading Notes** and,
- ➔ **mutatis mutandis**, to the above rules,


### mutatis mutandis

means : making necessary alterations while not affecting the main point at issue.

on the understanding that only sub-headings at the same level are comparable.

For the purposes of this rule the relative Section and Chapter Notes also apply, unless the context otherwise requires.

### Hypothetical Example for Understanding

Heading	-	Mens Wear	 <b>Q. How to classify T-Shirt in Sub-headings?</b> <b>Ans.</b> Apply Rule 3(a) or Rule 4 (Specific Heading or Akin) <b>Mutatis Mutandis</b> <b>T-Shirt to be Classified as Shirt</b>
Sub-heading	--	Suit	
Sub-heading	--	Shirt	
Sub-heading	--	Others	

**NON STATUTORY PRINCIPLE (Developed by Court)****Explanatory notes to HSN****Question:-**

What do you understand by Harmonized System of Nomenclature? Explain the significance of Explanatory Notes to HSN.

**Solution:-**

1. Harmonized System of Nomenclature (HSN) is an internationally accepted product coding system formulated under the auspices of the General Agreement of Tariffs and Trade (GATT). It forms the basis of the system of classification in the Custom Tariff Act, 1975. It has been developed by the Customs Co-operation Council, Brussels.
2. The structure of Custom tariff is based on internationally accepted nomenclature found in HSN and thus any dispute relating to tariff classification must, as far as possible, be resolved with reference to the nomenclature indicated by the HSN unless there be an express different intention indicated by the Custom tariff act, 1985 itself.
3. It is an eight digit code suitable for Multi-Purpose Nomenclature, for Levy of Customs Duties, and constitutes an international Economic Language.

If entries in HSN and Tariff are different then tariff will prevail over HSN

**Trade Paralance Theory****Question:-**

What do you understand by trade parlance theory?

While interpreting items under a statute, dictionary meaning / technical literature should be taken into account. Discuss with the help of decided case laws.

**Solution:-**

1. Goods are to be classified as they are known in **trade and commerce**.
2. If a product is neither defined in schedule to Custom tariff act, 1985 nor in the Customs Act, 1962 then it should be **classified according to its popular meaning or meaning attached to it by those dealing with it**, i.e. in its commercial sense.
3. **Exceptions:** the trade parlance theory will not be applicable under the following circumstances –
  - (a) **Scientific / technical terms:** where the tariff heading itself uses highly scientific or technical terms, they are to be classified in scientific or technical sense and not on the basis of market parlance.
  - (b) **Conflict with statutory context:** where the application of commercial meaning or trade nomenclature runs counter to the statutory context in which the said word was used, then a said principle of interpretation should not be applied. [Akbar Badruddin Jiwani 47 ELT 161 (SC)]

