

Classification in GST

ERNAKULAM BRANCH OF ICAI

CA. VIRAL KHANDHAR



CHAPTER 22 - BEVERAGES, SPIRITS AND VINEGAR

		beverages]			
		28% IGST/14% CGST/14% SGST or UTGST : 2202 10 : All goods (including aerated waters), containing added sugar or other sweetening matter or flavoured			
		28% IGST/14% CGST/14% SGST or UTGST : 2202 99 90 : Caffeinated Beverages			
2202 10	- <i>Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured:</i>				
2202 10 10 ¹	--- Aerated waters ¹	1	14%	14%	28%
2202 10 20 ¹	--- Lemonade ¹	1	14%	14%	28%
2202 10 90 ¹	--- Other ¹	1	14%	14%	28%
	- <i>Other:</i>				
2202 91 00	-- Non-alcoholic beer	1	9%	9%	18%
2202 99	-- <i>Other:</i>				
2202 99 10	--- Soya milk drinks, whether or not sweetened or flavoured	1	6%	6%	12%
2202 99 20	--- Fruit pulp or fruit juice based drinks	1	6%	6%	12%
2202 99 30	--- Beverages containing milk	1	6%	6%	12%
2202 99 90 ¹	--- Other	1	9%	9%	18%
2203 00 00	Beer made from malt	1	Non-GST items		
2204	Wine of fresh grapes, including fortified wines; grape must other than that of heading 2009		Non-GST items		
2204 10 00	- Sparkling wine	1			
	- <i>Other wine; grape must with fermentation prevented or arrested by the addition of alcohol:</i>				
2204 21	-- <i>In containers holding 2 l or less:</i>				

CHAPTER 33 - ESSENTIAL OILS AND RESINOIDS; PERFUMERY, COSMETIC OR TOILET ...

3305 90 40	--- Hair dyes (natural, herbal or synthetic)	kg.	9%	9%	18%
3305 90 50	--- Hair fixers	kg.	9%	9%	18%
3305 90 90	--- Other	kg.	9%	9%	18%
3306	Preparations for oral or dental hygiene, including denture fixative pastes and powders; yarn used to clean between the teeth (dental floss), in individual retail packages				
3306 10	- <i>Dentifrices:</i>				
3306 10 10	--- In powder (Tooth Powder)	kg.	6%	6%	12%
3306 10 20	--- In paste (Tooth Paste)	kg.	9%	9%	18%
3306 10 90	--- Other	kg.	9%	9%	18%
3306 20 00	- Yarn used to clean between the teeth (dental floss)	kg.	9%	9%	18%
3306 90 00	- Other	kg.	9%	9%	18%
3307	Pre-shave, shaving or after-shave preparations, personal deodorants, bath preparations, depilatories and other perfumery, cosmetic or toilet preparations, not elsewhere specified or included, prepared room deodorisers, whether or not perfumed or having disinfectant properties				
3307 10	- <i>Pre-shave, shaving or after-shave preparations :</i>				
3307 10 10	--- Shaving cream	kg.	9%	9%	18%
3307 10 90	--- Other	kg.	9%	9%	18%
3307 20 00	- Personal deodorants and anti-perspirants	kg.	9%	9%	18%
3307 30	- <i>Perfumed bath salts and other bath preparations :</i>				
3307 30 10	--- Bath oil (thailam)	kg.	9%	9%	18%
3307 30 90	--- Other	kg.	9%	9%	18%
	- <i>Preparations for perfuming or deodorizing rooms, including odoriferous preparations used during religious rites :</i>				

HEADING 9963 - ACCOMMODATION, FOOD AND BEVERAGE SERVICES : NOTIFIED RATES FOR ...

Chapter, Section, Heading, Group or Service Code(Tariff)	Description of Goods	CGST	SGST/UTGST	IGST	Condition
(1)	(2)	(3)	(4)	(5)	(6)
Heading 9963 (Accommodation, food and beverage services)	1 [(i)] Supply of 'hotel accommodation' having value of supply of a unit of accommodation above one thousand rupees but less than or equal to seven thousand five hundred rupees per unit per day or equivalent.	6	6	12	-
	(ii) Supply of 'restaurant service' other than at 'specified premises'	2.5	2.5	5	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to Notes 4(iv)]
	(iii) Supply of goods, being food or any other article for human consumption or any drink, by the Indian Railways or Indian Railways Catering and Tourism Corporation Ltd. or their licencees, whether in trains or at platforms.	2.5	2.5	5	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to Notes 4(iv)]
	(iv) Supply of 'outdoor catering', at premises other than 'specified premises' provided by any person other than— (a) suppliers providing 'hotel accommodation' at 'specified premises', or (b) suppliers located in 'specified premises'.	2.5	2.5	5	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to Notes 4(iv)]
	(v) Composite supply of 'outdoor catering' together with renting of premises (including hotel, convention center, club, pandal, shamiana or any other place, specially arranged for organising a function) at premises other than 'specified premises' provided by any person other than— (a) suppliers providing 'hotel accommodation' at 'specified premises', or (b) suppliers located in 'specified premises'.	2.5	2.5	5	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to Notes 4(iv)]
	(vi) Accommodation, food and beverage services other than (i) to (v) above Exolanation.—	9	9	18	-]

CLASSIFICATION UNDER GST

- What is classification?
- Why is classification required?
- Which section in the Act gives the power to classify Goods or Services ?
- How to classify goods and services?

WHY IS CLASSIFICATION REQUIRED ?

For determining and classifying the scope of leviability of tax through a particular legislation.

Taxable

























Non-taxable items

LEVY AND COLLECTION – SECTION 9

*(1) Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies **of goods or services or both**, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent, **as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.***

Central Tax (Rate) Notifications

Year 2017

Notification No. & Date of Issue	English	हिन्दी	Subject
07/2017-Central Tax (Rate),dt. 28-06-2017	View  (254 KB)	देखें  (512 KB)	Exemption from CGST supplies by CSD to Unit Run Canteens and supplies by CSD / Unit Run Canteens to authorised customers notified under section 11 (1) and section 55 CSD
06/2017-Central Tax (Rate),dt. 28-06-2017	View  (142 KB)	देखें  (498 KB)	Refund of 50% of CGST on supplies to CSD under section 55
05/2017-Central Tax (Rate),dt. 28-06-2017	View  (269 KB)	देखें  (685 KB)	Supplies of goods in respect of which no refund of unutilised input tax credit shall be allowed under section 54 (3)
04/2017-Central Tax (Rate),dt. 28-06-2017	View  (263 KB)	देखें  (739 KB)	Reverse charge on certain specified supplies of goods under section 9 (3)
03/2017-Central Tax (Rate),dt. 28-06-2017	View  (299 KB)	देखें  (859 KB)	2.5% concessional CGST rate for supplies to Exploration and Production notified under section 11 (1)
02/2017-Central Tax (Rate),dt. 28-06-2017	View  (375 KB) Corrigendum  (100 KB) Corrigendum  (249 KB) , dated 27-07-2017	देखें  (856 KB) Corrigendum  (100 KB) Corrigendum  (234 KB) , dated 27-07-2017	CGST exempt goods notified under section 11 (1)
01/2017-Central Tax (Rate),dt. 28-06-2017	View  (1506 KB) Corrigendum  (252 KB), dated 30-06-2017 Corrigendum  (100 KB) , dated 12-07-2017 Corrigendum  (257 KB) , dated 27-07-2017	देखें  (3398 KB) Corrigendum  (488 KB), dated 30-06-2017 Corrigendum  (85 KB) , dated 12-07-2017 Corrigendum  (333 KB) , dated 27-07-2017	CGST Rate Schedule notified under section 9 (1)



NOTIFICATION NO. 1/2017-CENTRAL TAX (RATE)

SECTION 9 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - LEVY & COLLECTION OF TAX - CGST RATE SCHEDULE FOR GOODS

NOTIFICATION NO. 1/2017-CENTRAL TAX (RATE), DATED 28-6-2017, AS AMENDED BY, [NOTIFICATION NO. 18/2017-CENTRAL TAX \(RATE\), DATED 30-6-2017](#), [CORRIGENDUM GSR 761\(E\), DATED 30-6-2017](#), [CORRIGENDUM GSR 867\(E\), DATED 12-7-2017](#), [CORRIGENDUM GSR 958\(E\), DATED 27-7-2017](#), [NOTIFICATION NO. 19/2017-CENTRAL TAX \(RATE\), DATED 18-8-2017](#), [NOTIFICATION NO. 27/2017-CENTRAL TAX \(RATE\), DATED 22-9-2017](#), [NOTIFICATION NO. 34/2017-CENTRAL TAX \(RATE\), DATED 13-10-2017](#), [NOTIFICATION NO. 41/2017-CENTRAL TAX \(RATE\), DATED 14-11-2017](#), [NOTIFICATION NO. 6/2018-CENTRAL TAX \(RATE\), DATED 25-1-2018](#), [NOTIFICATION NO. 18/2018-CENTRAL TAX \(RATE\), DATED 26-7-2018](#), [NOTIFICATION NO. 24/2018-CENTRAL TAX \(RATE\), DATED 31-12-2018](#), [NOTIFICATION NO. 8/2019-CENTRAL TAX \(RATE\), DATED 29-3-2019](#), [NOTIFICATION NO. 12/2019-CENTRAL TAX \(RATE\), DATED 31-7-2019](#) AND [NOTIFICATION NO. 14/2019-CENTRAL TAX \(RATE\), DATED 30-9-2019](#), [NOTIFICATION NO.27/2019-CENTRAL TAX \(RATE\), DATED 30-12-2019](#), [NOTIFICATION NO. 1/2020-CENTRAL TAX \(RATE\), DATED 21-2-2020](#)

In exercise of the powers conferred by sub-section (1) of section 9¹*[and sub-section (5) of section 15]* of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby notifies the rate of the central tax of—

- (i) 2.5 per cent in respect of goods specified in Schedule I,
- (ii) 6 per cent in respect of goods specified in Schedule II,
- (iii) 9 per cent in respect of goods specified in Schedule III,
- (iv) 14 per cent in respect of goods specified in Schedule IV,
- (v) 1.5 per cent in respect of goods specified in Schedule V, and
- (vi) 0.125 per cent in respect of goods specified in Schedule VI

appended to this notification (hereinafter referred to as the said Schedules), that shall be levied on intra-State supplies of goods, the description of which is specified in the corresponding entry in column (3) of the said Schedules, falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Schedules.

SCHEDULE I-2.5%

Sl. No.	Chapter/Heading/Sub-heading/Tariff item	Description of Goods
(1)	(2)	(3)

(1)	(2)	(3)
1.	7102	Diamonds, non-industrial unworked or simply sawn, cleaved or bruted
2.	7103	Precious stones (other than diamonds) and semi-precious stones, unworked or simply sawn or roughly shaped
3.	7104	Synthetic or reconstructed precious or semi-precious stones, unworked or simply sawn or roughly shaped

Explanation. – For the purposes of this notification,-

(i) The phrase “unit container” means a package, whether large or small (for example, tin, can, box, jar, bottle, bag, or carton, drum, barrel, or canister) designed to hold a pre-determined quantity or number, which is indicated on such package.

(ii) The phrase “registered brand name” means brand name or trade name, that is to say, a name or a mark, such as symbol, monogram, label, signature or invented word or writing which is used in relation to such specified goods for the purpose of indicating, or so as to indicate a connection in the course of trade between such specified goods and some person using such name or mark with or without any indication of the identity of that person, and which is registered under the Trade Marks Act, 1999.
























(iii) “Tariff item”, “sub-heading” “heading” and “Chapter” shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

(iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

2. This notification shall come into force with effect from the 1st day of July, 2017.

Central Tax (Rate) Notifications

Year

Notification No. & Date of Issue	English	हिन्दी	Subject
17/2017-Central Tax (Rate) ,dt. 28-06-2017	View  (136 KB)	देखें  (585 KB)	To notify the categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator
16/2017-Central Tax (Rate) ,dt. 28-06-2017	View  (344 KB)	देखें  (385 KB)	To notify specialised agencies entitled to claim a refund of taxes paid on the notified supplies of goods or services or both received by them under CGST Act
15/2017-Central Tax (Rate) ,dt. 28-06-2017	View  (142 KB)	देखें  (431 KB)	To notify the supplies not eligible for refund of unutilized ITC under CGST Act
14/2017-Central Tax (Rate) ,dt. 28-06-2017	View  (248 KB)	देखें  (318 KB)	To notify the supplies which shall be treated neither as a supply of goods nor a supply of service under the CGST Act
13/2017-Central Tax (Rate) ,dt. 28-06-2017	View  (274 KB)	देखें  (722 KB)	To notify the categories of services on which tax will be payable under reverse charge mechanism under CGST Act
	Corrigendum  (116 KB)	Corrigendum  (442 KB)	
12/2017-Central Tax (Rate), dt. 28-06-2017	View  (440 KB)	देखें  (990 KB)	To notify the exemptions on supply of services under CGST Act
11/2017-Central Tax (Rate) ,dt. 28-06-2017	View  (399 KB)	देखें  (1.11 MB)	To notify the rates for supply of services under CGST Act
	Annexure  (252 KB)	Annexure  (252 KB)	
10/2017-Central Tax (Rate),dt. 28-06-2017	View  (143 KB)	देखें  (503 KB)	CGST exemption for dealers operating under Margin Scheme notified under section 11 (1)
09/2017-Central Tax (Rate),dt. 28-06-2017	View  (143 KB)	देखें  (500 KB)	Exempting supplies to a TDS deductor by a supplier, who is not registered, under section 11 (1)
08/2017-Central Tax (Rate),dt. 28-06-2017	View  (143 KB)	देखें  (500 KB)	CGST exemption from reverse charge upto Rs.5000 per day under section 11 (1)

Viewing 31 to 40 of 47

<< 1 2 3 4 5 >>



NOTIFICATION NO. 11/2017-CENTRAL TAX (RATE)

SECTION 9, READ WITH SECTIONS 11, 15 & 16, OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - LEVY & COLLECTION OF TAX - CGST RATE SCHEDULE FOR SERVICES

NOTIFICATION NO. 11/2017-CENTRAL TAX (RATE), DATED 28-6-2017, AS AMENDED BY, [NOTIFICATION NO. 20/2017-CENTRAL TAX \(RATE\), DATED 22-8-2017](#), [NOTIFICATION NO. 24/2017-CENTRAL TAX \(RATE\), DATED 21-9-2017](#), [NOTIFICATION NO. 31/2017-CENTRAL TAX \(RATE\), DATED 13-10-2017](#), [NOTIFICATION NO. 46/2017-CENTRAL TAX \(RATE\), DATED 14-11-2017](#), [NOTIFICATION NO. 1/2018-CENTRAL TAX \(RATE\), DATED 25-1-2018](#), [NOTIFICATION NO. 13/2018-CENTRAL TAX \(RATE\), DATED 26-7-2018](#), [NOTIFICATION NO. 17/2018-CENTRAL TAX \(RATE\), DATED 26-7-2018](#), [NOTIFICATION NO. 27/2018-CENTRAL TAX \(RATE\), DATED 31-12-2018](#), [NOTIFICATION NO. 30/2018-CENTRAL TAX \(RATE\), DATED 31-12-2018](#), [NOTIFICATION NO. 3/2019-CENTRAL TAX \(RATE\), DATED 29-3-2019](#), [CORRIGENDUM GSR 327\(E\), DATED 25-4-2019](#), [NOTIFICATION NO. 10/2019-CENTRAL TAX \(RATE\), DATED 10-5-2019](#) AND [NOTIFICATION NO. 20/2019-CENTRAL TAX \(RATE\), DATED 30-9-2019](#), , [NOTIFICATION NO. 26/2019 - CENTRAL TAX \(RATE\), DATED 22-11-2019](#)

In exercise of the powers conferred by sub-section (1) ¹[, *sub-section (3) and sub-section (4)*] of section 9, sub-section (1) of section 11, sub-section (5) of section 15 ¹[,] sub-section (1) of section 16 ²[*and section 148*] of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby notifies that the central tax, on the intra-State supply of services of description as specified in column (3) of the Table below, falling under Chapter, Section or Heading of scheme of classification of services as specified in column (2), shall be levied at the rate as specified in the corresponding entry in column (4), subject to the conditions as specified in the corresponding entry in column (5) of the said Table:—

TABLE

Sl. No.	Chapter, Section or Heading	Description of Service	Rate (per cent)	Condition
(1)	(2)	(3)	(4)	(5)
1	Chapter 99	All Services		
2	Section 5	Construction Services		
3	Heading 9954 (Construction services)	³ [(i) <i>Construction of affordable residential apartments by a promoter in a Residential Real Estate Project (hereinafter referred to as RREP) which commences on or after</i>	0.75	Provided that the central tax at the rate specified in column (4) shall be paid in cash, that is, by debiting the electronic cash ledger only:

3. Value of supply of lottery shall be 100/112 of the face value or the price notified in the Official Gazette by the organising State, whichever is higher, in case of lottery run by State Government and 100/128 of the face value or the price notified in the Official Gazette by the organising State, whichever is higher, in case of lottery authorised by State Government.

4. *Explanation.-* For the purposes of this notification,-

(i) Goods includes capital goods.

(ii) Reference to “Chapter”, “Section” or “Heading”, wherever they occur, unless the context otherwise requires, shall mean respectively as “Chapter”, “Section” and “Heading” in the annexed scheme of classification of services (Annexure).

(iii) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of heading 9988.

(iv) Wherever a rate has been prescribed in this notification subject to the condition that credit of input tax charged on goods or services used in supplying the service has not been taken, it shall mean that,-

(a) credit of input tax charged on goods or services used exclusively in supplying such service has not been taken; and

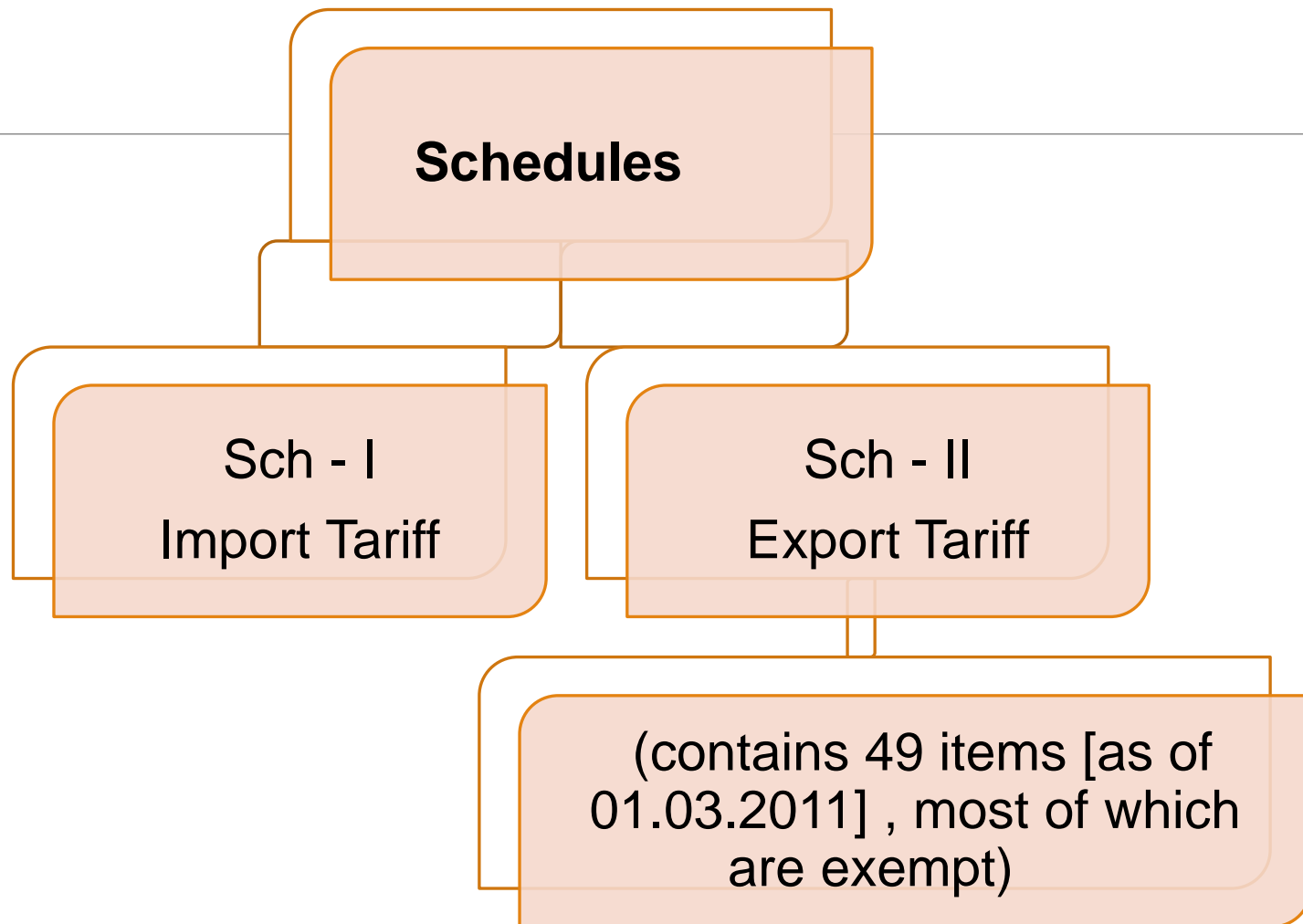
(b) credit of input tax charged on goods or services used partly for supplying such service and partly for effecting other supplies eligible for input tax credits, is reversed as if supply of such service is an exempt supply and attracts provisions of sub-section (2) of section 17 of the Central Goods and Services Tax Act, 2017 and the rules made thereunder.

(v) "information technology software" means any representation of instructions, data, sound or image, including source code and object code, recorded in a machine readable

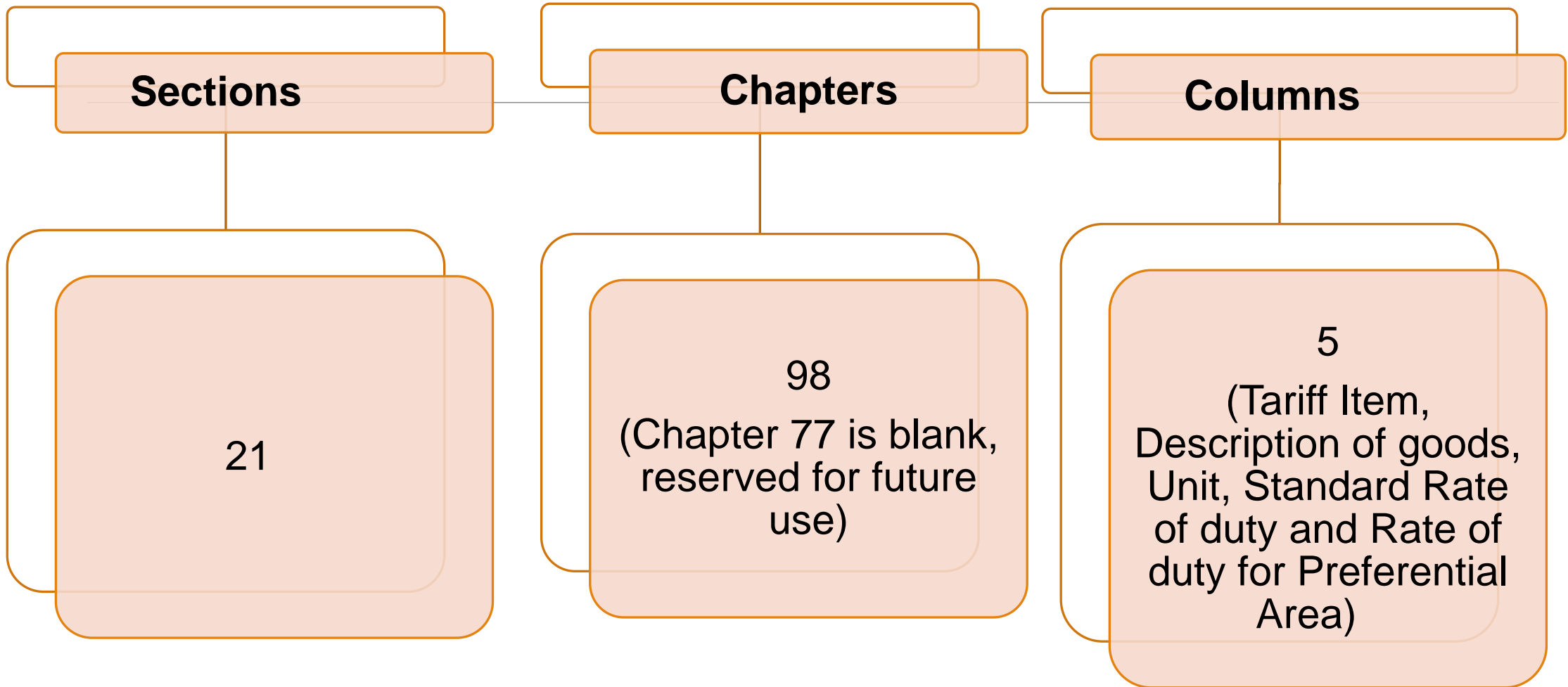
Annexure: Scheme of Classification of Services

S.No.	Chapter, Section, Heading or Group	Service Code (Tariff)	Service Description
(1)	(2)	(3)	(4)
1	Chapter 99		All Services
2	Section 5		Construction Services
3	Heading 9954		Construction services
4	Group 99541		Construction services of buildings
5		995411	Construction services of single dwelling or multi dwelling or multi-storied residential buildings
6		995412	Construction services of other residential buildings such as old age homes, homeless shelters, hostels and the like
7		995413	Construction services of industrial buildings such as buildings used for production activities (used for assembly line activities), workshops, storage buildings and other similar industrial buildings
8		995414	Construction services of commercial buildings such as office buildings, exhibition and marriage halls, malls, hotels, restaurants, airports, rail or road terminals, parking garages, petrol and service stations, theatres and other similar buildings
9		995415	Construction services of other non-residential buildings such as educational institutions, hospitals, clinics including veterinary clinics, religious establishments, courts, prisons, museums and other similar buildings
10		995416	Construction services of other buildings nowhere else classified
11		995419	Services involving repair, alterations, additions, replacements, renovation, maintenance or remodeling of the buildings covered

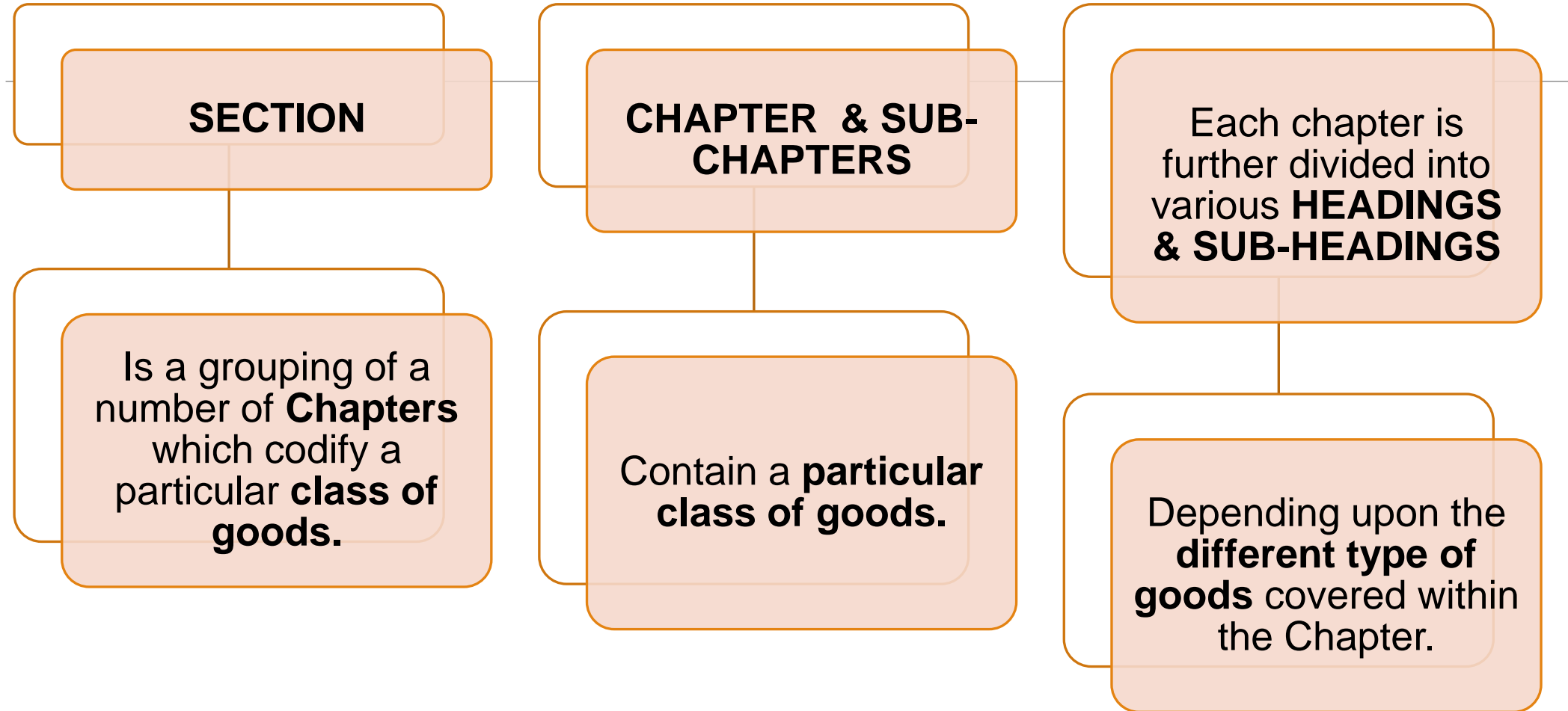
SCHEDULES TO THE CUSTOMS TARIFF ACT, 1975



FIRST SCHEDULE TO THE CUSTOMS TARIFF ACT, 1975



BROAD OUTLINE



SECTIONS

Section I : Live Animals; Animal Products

Section II : Vegetable Products

Section IV – Prepared foodstuffs, beverages

Section VI - Products of the chemical or allied industries

Section XI - Textile & textile articles

Section XII – Footwear, Headgear, Umbrella, Articles of human hair

Section XVII - Vehicles; aircraft; vessels & associated transport equipment

CHAPTERS

Section IV Prepared foodstuffs, beverages

Chapter 16:

- Preparations of meat, fish, etc.

Chapter 17:

- Sugar and sugar confectionery

Chapter 18:

- Cocoa and cocoa preparation

HEADINGS

HEADINGS

1701 - Cane or beet sugar and chemically pure sucrose, in solid form

1702 - Other sugars including chemically pure lactose, maltose, glucose and fructose, in solid form; sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel

1703 – Molasses resulting from the extraction or refining of sugar

CHAPTER 17

Sugars and sugar confectionery

NOTE :

This Chapter does not cover:

- (a) sugar confectionery containing cocoa (heading 1806);
- (b) chemically pure sugars (other than sucrose, lactose, maltose, glucose and fructose) or other products of heading 2940; or
- (c) medicaments or other products of Chapter 30.

SUB-HEADING NOTES :

1. For the purposes of sub-headings 1701 12, 1701 13 and 1701 14 “raw sugar” means sugar whose content of sucrose by weight, in the dry state, corresponds to a polarimeter reading of less than 99.5 degree.

2. Sub-heading 1701 13 covers only cane sugar obtained without centrifugation, whose content of sucrose by weight, in the dry state, corresponds to a polarimeter reading of 69 degree or more but less than 93 degree. 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	
			Standard Areas	Preferential
(1)	(2)	(3)	(4)	(5)
1701	CANE OR BEET SUGAR AND CHEMICALLY PURE SUCROSE, IN SOLID FORM			

Explanatory Notes to HSN

- For ensuring uniformity, the World Customs Organization has published various Explanatory Notes to various heading/sub-headings.
- They do not form part of the legal provisions of the HS.
- Not exhaustive, unchangeable commentary on the overall scope of the headings and sub-headings.
- Gives a better understanding of the tariff headings
- 5 Volumes published by the WCO

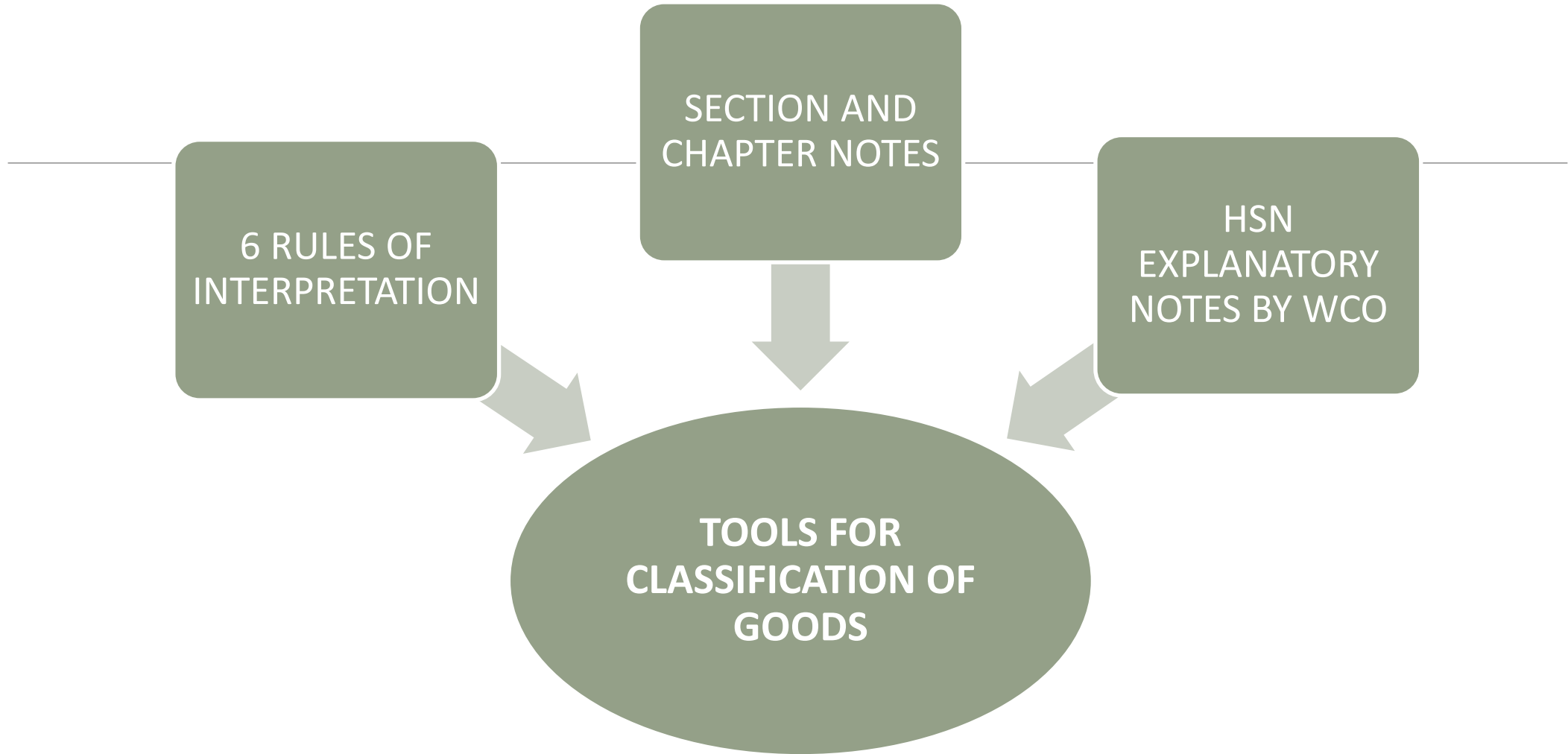
Is the HSN really this simple??

Think about

- Parts and Accessories
- Sets and Kits
- New products on the market
- Product consisting of mixed materials
- Multi-purpose goods
- Combination of machines

Cases to consider

- Ingredient or Use
- Relevance of 'Name'
- Scientific Understanding
- Domain Understanding
- User Understanding



6 RULES OF
INTERPRETATION

SECTION AND
CHAPTER NOTES

HSN
EXPLANATORY
NOTES BY WCO

TOOLS FOR
CLASSIFICATION OF
GOODS

UNDERSTANDING GENERAL RULES OF INTERPRETATION

General Rules of Interpretation – Rule 1

***Rule 1:** The titles of Sections, Chapters and sub-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 Section or Chapter Notes.*

- The titles of Sections, Chapters do not have any legal force.
- Terms of heading read with relevant section or chapter notes are legally relevant for the purpose of classification
- The rules of Interpretation need not be resorted to when classification is possible on the basis of description in heading, sub-heading, chapter notes and section notes.
- Notes of one Chapter cannot be applied for interpreting entries in other Chapters or Sections.



Rubber Slippers (Hawai Chappal)

Chapter 40 – RUBBER AND ARTICLES THEREOF?

Chapter 64 - FOOTWEAR, GAITERS AND THE LIKE; PARTS OF SUCH ARTICLES

CHAPTER 40

RUBBER AND ARTICLES THEREOF

Notes :

1. Except where the context otherwise requires, throughout this Schedule the expression "rubber" means the following products, whether or not vulcanised or hard :
natural rubber, balata, gutta-percha, guayule, chicle and similar natural gums, synthetic rubber, factice derived from oils, and such substances reclaimed.
2. This Chapter does not cover :
 - (a) goods of Section XI (textiles and textile articles);
 - (b) footwear or parts thereof of Chapter 64;
 - (c) headgear or parts thereof (including bathing caps) of Chapter 65;
 - (d) mechanical or electrical appliances or parts thereof of Section XVI (including electrical goods of all kinds), of hard rubber;
 - (e) articles of Chapter 90, 92, 94 or 96; or
 - (f) articles of Chapter 95 (other than sports gloves, mittens and mitts and articles of headings 4011 to 4013).



Children Tricycle

Chapter 87 - VEHICLES OTHER THAN RAILWAY OR TRAMWAY ROLLING-STOCK, AND PARTS AND ACCESSORIES THEREOF ?

Chapter 95 - TOYS, GAMES AND SPORTS REQUISITES; PARTS AND ACCESSORIES THEREOF ?

CHAPTER 87

VEHICLES OTHER THAN RAILWAY OR TRAMWAY ROLLING-STOCK, AND PARTS AND ACCESSORIES THEREOF

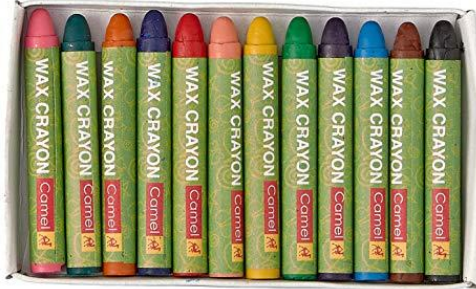
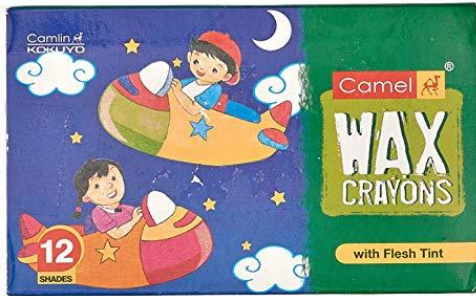
Notes:

1. This Chapter does not cover railway or tramway rolling-stock designed solely for running on rails.
2. For the purposes of this Chapter, "tractors" means vehicles constructed essentially for hauling or pushing another vehicle, appliance or load, whether or not they for the transport, in connection with the main use of the tractor, of tools, seeds, fertilizers or other goods.
Machines and working tools designed for fitting to tractors of heading 8701 as interchangeable equipment remain classified in their respective headings even and whether or not mounted on it.
3. Motor chassis fitted with cabs fall in headings 8702 to 8704, and not in heading 8706.
4. Heading 8712 includes all children's bicycles. Other children's cycles fall in heading 9503.

General Rules of Interpretation – Rule 2(a)

Rule 2(a): Any reference in a heading to an article shall be taken to include a reference to **that article incomplete or unfinished**, provided that, as presented, the incomplete or unfinished article **has the essential character of the complete or finished article**. It shall also be taken to include a reference to that article complete or finished (or failing to be classified as complete or finished by virtue of this Rule), presented **unassembled or disassembled**.

- Applies only when Rule 1 has failed
- Extends the scope of any heading which refers to a particular article to cover not only the complete article but also that article incomplete or unfinished, provided that, as presented, it has the essential character of the complete or finished article



Camlin Limited was manufacturing plastic crayon falling under sub-heading 9609.00 which is chargeable to nil rate of duty, in the manufacture of which an in-process product known as crayplas shapeless plastic crayon (impugned good) comes into being.

It was classifying the same under **CETH 9609 00** which covers “*pencils, crayons, pencil leads, pastels, drawing charcoals, writing or drawing chalks*”, whereas the Department asserted coverage under sub-heading **3204.19** relating to *pigments and preparation based thereon other than those in unformulated and unstandardized or unprepared form, not ready for use.*” as the same are nothing but plastic crayon compound and are covered under Chapter 32 in view of being a preparation

Camlin Ltd. v. CCE (2003) 155 ELT 138 (CEGAT) [affirmed in (2005)180 E.L.T. 307 (S.C.)]

GIR 2(a) also, allows classification of incomplete or unfinished goods having the essential characteristics of complete or finished goods. In the instant case, the impugned goods only require to be given the shape of crayons before they can be made into finished crayons and as such, they can be considered as incomplete or unfinished goods.



General Rules of Interpretation – Rule 2(b)

Rule 2(b): Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.

- Any reference to a material or substance would refer to mixture or combination of that material or substance.
- Any reference to goods containing a particular material or substance would include a reference to the goods consisting wholly or partly of such specified material or substance.

-
- The term Coffee will include coffee mixed with Chicory
 - Natural rubber will cover a mixture of natural and synthetic rubber
 - Articles of gold will include articles which is made partly of gold

General Rules of Interpretation – Rule 3(a)

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 -
The heading which provides the most specific description shall be preferred to headings providing a more general description.

- Engine parts made of Steel classifiable under
 - 8409 – “Parts suitable for use solely or principally with the engines of heading 8407 or 8408” OR

 - 7325 – “ Other cast articles of Iron or Steel”

Classify under 8409 as it is more specific
- Electric Shaving Machine classifiable under
 - 85.10 – Shavers and hair clippers with self contained electric motors OR
 - 85.09 – Electro-mechanical domestic appliances with self –contained electric motor

Classify under 85.10 as it is more specific
- Plastic name plate for motor vehicle is to be classified as “accessory of motor vehicle” and not “other articles of plastic”

General Rules of Interpretation – Rule 3(b)

Mixtures, composite goods consisting of different material is 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, in so far as this criterion is applicable.

- This rule can be applied only if Rule 3(a) application is impossible.



- Multimedia speakers with additional facilities such as USB, SD card and FM radio etc. -whether classified under
 - CTH 851822- *Loudspeakers, whether or not mounted in their enclosures: headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers: audio-frequency electric amplifiers: electric sound amplifier sets; or under*
 - CTH 8519 – *“Sound recording or reproducing apparatus”*
- The Tribunal held that the impugned goods are speakers with added function and the main role of the item, in question, remains amplifying the sound received from outside source or from inbuilt feature. The Tribunal held that the product should be classified as speakers only.



A hairdressing kit made up of electric hair clippers (heading 85.10), a comb (heading 96.15), a pair of scissors (heading 82.13), a brush (heading 96.03), put up in a leather case (heading 42.02).

The clippers are considered to have the essential character, so the whole kit would be classified under heading 85.10.



What would be the classification?

General Rules of Interpretation – Rule 3(c)

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.

- Latter the better
 - In case of **Mahindra & Mahindra v. CCE – (1999) 109 ELT 739 (CEGAT)**, it was held that if tariff entries 87.03 -*Motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading 8702), including station wagons and racing cars* and
 - 87.04 – *Motor vehicles for the transport of goods*
- are equally applicable, then goods will be classifiable under 87.04 , as it occurs later in the Tariff

General Rules of Interpretation – Rule 4

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

- Referred popularly as the Akin Rule

- Applicant was a wholesale distributor of “Ada” which is used as ‘Seviyan’ (vermicelli) i.e., to make sweet kheer or “palada payasam” or “ada pradhaman”
- Ada is one of the grocery goods, mainly used by Keralites to prepare a sweet kheer or payasam otherwise called pradhaman. The ada is produced from rice flour or maida and no other ingredients are added.
- Whether classifiable under HSN 1902 – Seviyan (Vermicelli) attracting 5% or Residual Entry 453 attracting 18% since “ada” is not specifically mentioned.
- Seviyan and Ada are both produced from Rice Flour or a mixture of Maida and Rice Flour and used for the purpose of giving richness to the regional varieties of Payasam.
- The only difference is that Seviyan (Vermicelli) is prepared in the form of sticks and ‘Ada’ is prepared in the form of thin pieces, making use of different dies.
- In payasams, where "Vermicelli" is used ‘Ada’ is not used. Hence, essentially ‘Ada’ is a substitute for ‘Vermicelli’ used for giving richness to certain regional varieties of payasams.
- Following Rule 4, the Ada was classified under HSN 1902.

General Rules of Interpretation – Rule 5

In addition to the foregoing provisions, the following rules shall apply in respect of the goods referred to therein:

(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 set of articles, **suitable for long-term use** and presented with the articles for which they are intended, **shall be classified with such articles** when of a kind normally sold therewith. This rule does not, however, **apply to containers which give the whole its essential character**;

(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**

General Rules of Interpretation – Rule 6

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 headings Notes and, mutatis mutandis, to the above rules, 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.

- The sub-headings within the same heading are comparable with each other, but not with subheadings under any other heading
- The heading is to be first determined, and then the sub-heading has to be ascertained.

Classification Principles Evolved by Courts

- Trade / Common Parlance Understanding
- End Use/ Functional Test Classification
- Importance of Expert Opinion
- Finance Minister's Speech
- Importance of Trade Notice/ Circulars
- Provision at the relevant time



CCE v. Connaught Plaza Restaurant P. Ltd (2012) 286 ELT 321 (SC)

- Assessee was of the view that that “soft-serve” is a product distinct and separate from “ice-cream” since ice-cream is commonly understood to have milk fat content above 8% whereas their product does not contain more than 5%. Hence it cannot be considered as ice- cream.
- “Soft-serve”, in the absence of a definition of the term “ice cream”, it is to be construed as per common parlance, even if under the provisions of Food Adulteration Act, it may not fall within the meaning of ice cream.
- What matters is the way the consumer perceives the product.



- Domex Power Cleaner to be classified as a Cleaning Agent under Heading 3402 or as a Disinfectant under Heading 3808.
- The products in this case are not sold as disinfectant but are sold as cleaning agents which can also kill germs. HSN also provides that products having multiple uses and are therefore prima facie classifiable in more than one headings are usually classified by application of general Interpretative Rule-3.
- The disinfecting, insecticidal, etc. properties of the product should not be subsidiary to any other function.
- The labels and the contents clearly show that product is being sold as a cleaning agent which also kills germs. In fact, the label also says that it contains powerful Hypo formula, which obviously is Sodium Hypochlorite to show that it can remove dirt and stains completely and also kills germs. The words 'also kills germs' indicates that the main purpose of the product is cleaning and subsidiary purpose is 'killing germs'.
- Technical opinion and the consumer affidavits cannot be preferred to the declarations made by the appellants themselves in the statutory documents as well as on the labels on the retail packages, approved by the statutory authorities.

CLASSIFICATION OF SERVICES

Modified version of the United Nations Central Product Classification.

The classification consists of Sections, Divisions, Groups and Classes.

Chapter 99 deals only with Services

- Section 5 – Construction Services
- Section 6 - Distributive Trade Services ; Accommodation, Food and Beverage Service; Transport Services; Gas and Electricity Distribution Services
- Section 7 - Financial and related services; real estate services; and rental and leasing services
- Section 8 - Business and Production Services
- Section 9 - Community, social and personal services and other miscellaneous services

Various Steps in Classification of Goods or Services under GST

1. Definition of 'Goods' and 'Services'
2. Activities listed in Schedule-II
3. Activities listed in Schedule-III
4. Identification of Composite Supplies or Mixed Supplies
5. Identification of HSN Code from the Rate notification
6. Applicability of Principles of Interpretation applicable on Customs Tariff Act 1975 now made applicable vide Notification No 01/2017-CT (Rate) dated 28.06.2017.
7. Understanding the Service Code (Tariff) applicable on services in accordance with Annexure to Notification No 11/2017-CT (Rate) dated 28.06.2017.

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NOT FOR CIRCULATION

THANK YOU