CHAPTER 3

CLASSIFICATION OF IMPORTED AND EXPORT GOODS

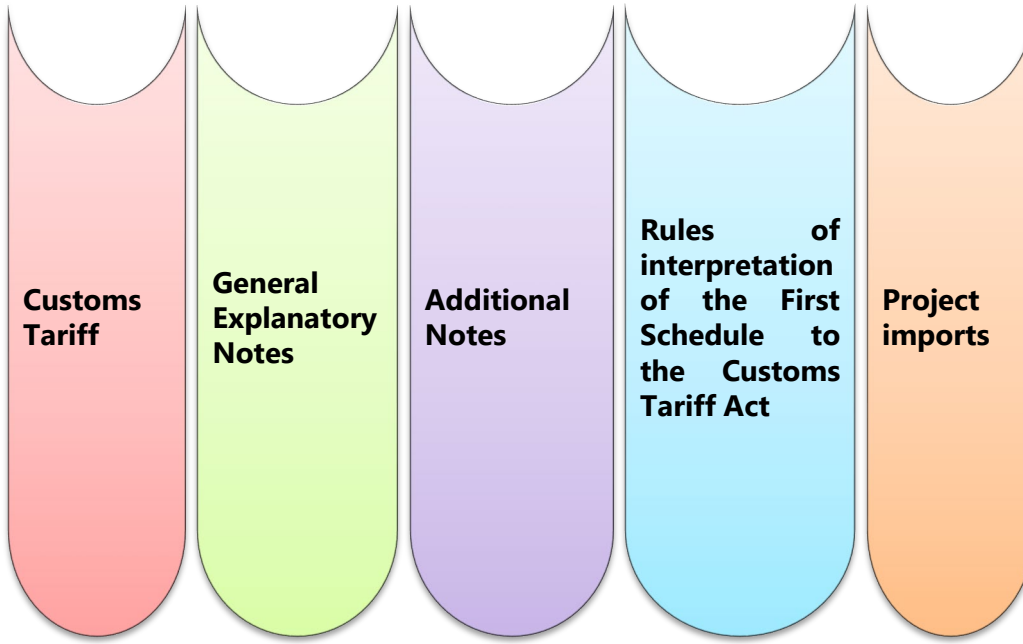
LEARNING OUTCOMES

After studying this chapter, you would be able to:

- understand the need for classification of goods and appreciate the various rules of classification
- understand the HSN based classification system along with explanatory notes of the First Schedule to the Customs Tariff Act, 1975.
- understand the concept of project imports.

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CHAPTER OVERVIEW

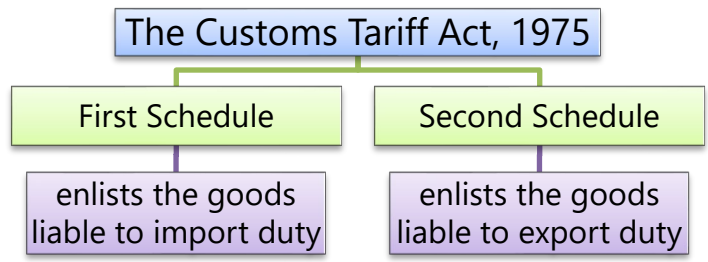


1. CUSTOMS TARIFF

❖ **Need for classification of goods:** One of the important steps in assessing the amount of duty payable is classification of the goods with reference to HSN system specified under Customs Tariff Act, 1975. The correct classification of goods is necessary to ascertain the rate of custom duty.

❖ **The Customs Tariff Act, 1975**

(a) Schedules to tariff



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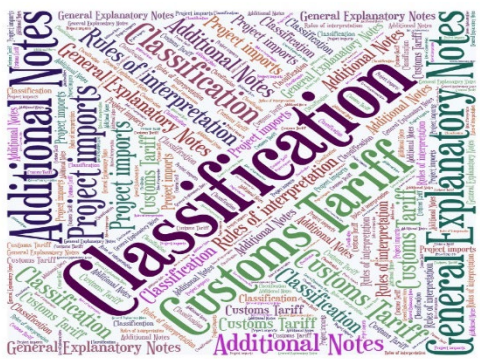
(b) Rules of interpretation and explanatory notes

The Indian Customs Tariff is based upon the Harmonized System of Nomenclature (HSN).

The **Harmonized Commodity Description and Coding System** (HS) of tariff nomenclature generally referred to as "Harmonized System of Nomenclature" is an internationally standardized system of names and numbers for classifying traded products developed and maintained by the World Customs Organization (WCO) (formerly the Customs Co-operation Council), an independent inter-governmental organization.



Eight digit classification in Customs: All goods are classified using 4 digit system. These are called 'headings'. Further 2 digits are added for sub-classification, which are termed as 'sub-headings'. Further 2 digits are added for sub-sub-classification, which is termed as 'tariff item'. The rate of duty is generally specified against the relevant tariff item in the First Schedule.



Along the lines of HSN, the Customs Tariff Act, 1975 has a set of General Rules of Interpretation of the First Schedule i.e. Import tariff schedule which *inter* alia contains General Explanatory notes.

(i) Rules of interpretation: Six

(ii) General explanatory notes: Three

These rules of interpretation and general explanatory notes are an integral part of the Schedule. The purpose of inclusion of the rules of interpretation and the general explanatory notes as an integral part of the first schedule is to give clear direction as to how the nomenclature

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in the schedule is to be interpreted and to give statutory force to the interpretative rules and the general explanatory notes.

Rules to be applied sequentially: The Rules are to be applied sequentially. Rule 1 gives precedence to Section Notes/Chapter Notes while classifying a product.

Classification is to be first tested in light of Rule 1. Only when it is not possible to resolve the issue by applying this rule, recourse is taken to Rules 2, 3 and 4 in seriatim.

(c) First Schedule of the Customs Tariff

The First Schedule of the Customs Tariff Act, 1975 comprises of 98 chapters grouped under 21 sections.

(i) Sections: A group of Chapters representing a particular class of goods.

(ii) Chapters: Each section is divided into various chapters and sub-chapters. Each chapter usually contains goods of a particular class.

(iii) Chapter notes: They are mentioned at the beginning of each chapter. These notes are part of the statute and hence have the legal authority in determining the classification of goods.

(iv) Heading: Each chapter and sub-chapter is further divided into various headings.

(v) Sub-heading: Each heading is further divided into various sub-headings.

2. GENERAL EXPLANATORY NOTES

There are **three general explanatory notes** included in the First Schedule. They are-

(a) Relevance of one dash ["-"], two dashes ["--"] and three dashes ["---"]

- the description of an article or group of articles under a 'heading' is preceded by "-". It denotes that the said article or group of articles is sub-classification of the article or group of article covered by the said heading.



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- "--" denotes that that the said article or group of articles is sub-classification of the immediately preceding article/group of articles which has "-".
- "---" or "----" denotes that the said article or group of articles is a sub-classification of the immediately preceding description of the article or group of articles which has "-" or "--"

(b) Meaning of abbreviation "%" in relation to the rate of duty

The abbreviation "%" in any column of the Schedule in relation to the rate of duty means that the duty is computed at the percentage specified on the value of the goods as defined in section 14 of the Customs Act.

(c) Standard rate of duty applicable if no preferential rate specified

In any entry, if no preferential rate of duty has been notified, the standard rate of duty shall be applicable.

(1) The above general explanatory notes can be understood with the following example:-

Chapter No. 08

Edible fruit and nuts; peel of citrus fruit or melons

Chapter Notes:

1. This Chapter does not cover inedible nuts or fruits.
2. Chilled fruits and nuts are to be classified in the same headings as the corresponding fresh fruits and nuts.
3. Dried fruit or dried nuts of this Chapter may be partially rehydrated, or treated for the following purposes:

   (a) for additional preservation or stabilisation (for example, by moderate heat treatment, sulphuring, the addition of sorbic acid or potassium sorbate);

   (b) to improve or maintain their appearance (for example by the addition of vegetable oil or small quantities of glucose syrup), provided that they retain the character of dried fruit or dried nuts.

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Tariff Item	Description of goods	Units	Rate of duty®	
			Standard	Preferential Areas
(1)	(2)	(3)	(4)	(5)
0801	**Coconuts, brazil nuts and cashew nuts, fresh or dried, whether or not shelled or peeled**			
	- Coconuts:			
0801 11 00	- - Desiccated	Kg.	70%	60%
0801 12	*- - In the inner shell (endocarp):*			
0801 12 10	- - - Fresh	Kg.	70%	60%
0801 12 20	- - - Dried	Kg.	70%	60%
0801 12 90	- - - Other	Kg.	70%	60%
0801 19	*- - Other:*			
0801 19 10	- - - Fresh	Kg.	70%	60%
0801 19 20	- - - Dried	Kg.	70%	60%
0801 19 90	- - - Other	Kg.	70%	60%
	- Brazil nuts:			
0801 21 00	- - In shell	Kg.	30%	20%
0801 22 00	- - Shelled	Kg.	30%	20%
	- Cashew nuts:			
0801 31 00	- - In shell	Kg.	30%	Free
0801 32	*- - Shelled:*			

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0801 32 10	- - Cashew kernel, broken	Kg.	70%	20%
0801 32 20	- - Cashew kernel, whole	Kg.	70%	20%
0801 32 90	- - Other	Kg.	70%	20%

In the above entry, following columns are there:-

Column (1): Tariff Item

Column (2): Description of goods

Column (3): Units

Column (4): Standard rate of duty

Column (5): Preferential rate of duty

(a) In the above entry, Coconuts, which is preceded by **"-"** is classification of the heading Coconuts, Brazil nuts and Cashew nuts, fresh or dried, whether or not Shelled or peeled.

"- -" is sub-classification of coconut which is preceded by "-".

(b) The second explanatory note states that the abbreviation **"%"** stands for specifying that the rate of duty is *ad valorem*. It means the duty shall be computed at the rates specified in the First Schedule on the value of the goods determined in accordance with section 14 of the Customs Act. In the above entry, the standard rates are 30% or as the case may be, 70%.

Illustration 1

Briefly explain "standard unit of quantity" with reference to the First Schedule to the Customs Tariff Act, 1975.

Answer

Standard Unit of Quantity is a unit of measure. It has been prescribed in column 3 of the First Schedule to the Customs Tariff for each tariff item to facilitate the collection, comparison and analysis of trade statistics. The unit of measure is indicated by abbreviations. Some abbreviations are cc-cubic centimeter, cm-centimetre(s), g-gram(s), mt-metric tonne.

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3. ADDITIONAL NOTES

Apart from the General Explanatory Notes, there are certain Additional Notes as well which state that:

(1) (a) "heading", in respect of goods, means a description in list of tariff provisions accompanied by a four-digit number and includes all sub-headings of tariff items the first four-digits of which correspond to that number;

(b) "sub-heading", in respect of goods, means a description in the list of tariff provisions accompanied by a six-digit number and includes all tariff items the first six-digits of which correspond to that number;



(c) "tariff item" means a description of goods in the list of tariff provisions accompanying eight-digit number and the rate of customs duty;

(2) the list of tariff provisions is divided into Sections, Chapters and Sub-Chapters;

(3) in column (3), the standard unit of quantity is specified for each tariff item to facilitate the collection, comparison and analysis of trade statistics.

4. RULES OF INTERPRETATION OF THE FIRST SCHEDULE TO THE CUSTOMS TARIFF ACT

❖ **Rule 1 – General Rule of Classification:** 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 and provided such headings or notes do not otherwise require, according to the subsequent rules [i.e. rule 2 to 6].



ANALYSIS

The above rule lays down the following propositions:-

(a) The titles of sections, chapters and sub-chapters do not have any legal force.

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(b) Terms of headings read with relative section and chapter notes are legally relevant for the purpose of classification.

(c) 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.



(d) Notes of one chapter or section cannot be applied for interpreting entries in other chapters or sections.



(2) Product: Letter closing and sealing machine

Sub-heading 842230 00: Machinery for filling, closing, sealing or labeling bottles, cans, boxes, bags or other containers; machinery for capsuling bottles, jars, tubes and similar containers; machinery for aerating beverages.

Sub-heading 847230 00 *inter alia* covers machines for closing or sealing mails.

Both the headings appear to be relevant for the product in question. However, chapter note 2 to chapter 84 inter alia provides that Heading No. 8422 does not cover office machinery of Heading No. 8472. Therefore, the product in question will be classified under 847230 00.

Illustration 2

Write a brief note on rule 1 of the Rules of Interpretation of the First Schedule to Customs Tariff Act, 1975.

Answer

Rule 1 of the general rules for interpretation states that the titles of sections, chapters and sub-chapters in the First Schedule to the Customs Tariff Act, 1975 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 and provided such headings or chapter notes do not otherwise require, according to the rule 2 to 6.

Thus, the tiles of sections, chapters and sub-chapters cannot be used to determine classification of a product.

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❖ Rule 2(a) Classification of Incomplete/Unfinished Articles

(i) 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.

Rule 2(a)

(ii) It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), presented unassembled or dis-assembled.



ANALYSIS

(i) If any particular heading refers to a finished/complete article, the incomplete/unfinished form of that article shall also be classified under the same heading provided the incomplete/unfinished goods have the essential characteristics of the finished goods.

(ii) If any particular heading refers to a finished/complete article, the unassembled/dis-assembled form of that article shall also be classified under the same heading provided the unassembled/dis-assembled goods have the essential characteristics of the finished goods.



(3) (a) Railway coaches removed without seats would still be railway coaches.

(b) A car without seats would still be classified as car.

Only goods requiring minor adjustments can be construed as having the essential character

Only goods requiring minor adjustments would be construed as having the essential character. Those requiring major processes like turning, grinding, broaching, groove cutting, heat treatment, surface treatment etc., cannot be construed as having the essential character of complete and finished articles and cannot fall within the scope of rule 2(a) of the General Interpretative Rules.

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❖ **Rule 2(b) – Classification of Mixtures/Combinations of a Material/Substance with Other Materials/Substances**

(i) 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.

Rule 2(b)

(ii) 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.

(iii) The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.



ANALYSIS

The following propositions are laid out by the above rule.

(a) Any reference to a material or substance would refer to mixture or combination of that material or substance.

(b) Any reference to goods containing a particular material or substance would include a reference to goods consisting wholly or partly of such specified material or substance.



(4)(a) The term coffee will include coffee mixed with chicory.

(b)Natural rubber will cover a mixture of natural and synthetic rubber.

❖ **Rule 3 – Classification in case goods are classifiable under two or more headings:** The application of this rule arises when the goods consists of more than one material or substance.

Rule 3

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:

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❖ **Rule 3(a) – Specific over general**

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

Rule 3(a)

(ii) 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 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.



ANALYSIS

The heading that provides a more specific description should be preferred over the heading that provides a general description.

Relevant case law: Electric shaving machine was classifiable under following two headings:-

(i) **Heading No. 8510:** Shavers and hair clippers with self-contained electric motors

(ii) **Heading No. 8509:** Electro-mechanical domestic appliances with self-contained electric motor

The said product in the above instance would be classifiable under heading No. 8510 as heading No. 8510 is more specific as compared to heading No. 8509.

❖ **Rule 3(b) – Essential character principle:** 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 with reference to (a), shall be classified as if they consisted of material which gives them their essential character, in so far as this criterion is applicable.

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ANALYSIS

Sub-rule (b) would apply only if the goods cannot be classified under sub-rule (a). This sub-rule provides that composite goods should be classified on the basis of that material or component that gives them the essential character.

Rule 3(b)

In order to determine the essential character of composite goods, the nature, bulk, quantity, weight, value, role of the constituent material/component, etc., as applicable, may be considered.

example

(5) Product: Lead pencil with an eraser at the back.

Classification: Though the above product is composite goods, the essential character is that it is a pencil and the attachment of eraser at the stub is only for the purpose of adding convenience to the user. Therefore, it shall be classified as a pencil and not as an eraser.

❖ **Rule 3(c) – Latter the 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.

Rule 3(c)

ANALYSIS

If both sub-rules (a) and (b) fails to classify the goods in question, then resort may be made to sub-rule (c), which provides that composite goods shall be classified on the basis of the heading that occurs last in numerical order.

Relevant case law:-

***Mahindra and Mahindra v. CCE [1999 (109) E.L.T. 739 (Tribunal)]*[maintained by SC]**

When the goods cleared by assessee were equally classifiable under the following two headings:-

(i) **Heading No. 8703:-**Motor cars and other vehicles principally designed for the transport of persons.

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(ii) Heading No. 8704: Motor vehicles meant for transport of goods.

It was held that heading 8704 occurs last and as both the headings equally merit classification, goods shall be classified under 8704 applying the interpretative Rule 3(c).

❖ **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.



ANALYSIS

This rule is popularly referred to as **Akin rule**. This rule specifies that if the goods cannot be classified in accordance with the earlier rules, they shall be classified under the heading in which the most akin goods are classified.





(6) Product: Plastic films used to filter or remove the glare of the sun light, pasted on car glass windows, window panes etc.

Classification: These goods do not find a specific entry in the tariff schedule. However, heading 392530 00 covers Builder's wares of plastic not elsewhere specified – shutters, blinds (including Venetian blinds) and similar articles & parts thereof. Even though the product in question is not a builders ware, they are most akin to plastic blinds and hence it can be classified under 3925 30 00 heading.

❖ **Rule 5:** In addition to the foregoing provisions, following rules shall apply in respect of goods referred to therein:

(a) Classification of cases/containers used for packaging of goods: Camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers shall be classified with a specific article or a set of articles when of a kind normally sold therewith.



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Conditions to be fulfilled:-

(i) These cases/containers are specially shaped or fitted to contain a specific article or a set of articles.

(ii) These cases/containers are suitable for long term use and presented with the articles for which they are intended.

This rule does not, however, apply to containers which give the whole its essential character.

(b) Classification of packing materials and packing containers: 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 material or packing containers are clearly suitable for repetitive use.



ANALYSIS

This rule lays down that:-

(i) Cases which are specially designed or fitted to contain a specific article and given with the articles for which they are intended shall follow the classification of the items which are packed.

(ii) The packing materials and containers cleared along with the goods are classifiable with the goods.



(7) Leather cases, which are normally supplied along with the goods, however costly they may be, need not be treated separately for the purpose of classification.

Exceptions to rule 5

(a) Durable containers capable of repetitive use should be classified separately.



(8) Gas cylinders are meant for repetitive use and therefore cannot be classifiable along with gas.

(b) When packing material itself gives the essential character as a whole.

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❖ Rule 6: Only Sub-Headings at the Same Level are Comparable

(i) 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, on the understanding that only sub-headings at the same level are comparable.



(ii) For the purposes of this rule the relative section and chapter notes also apply, unless the context otherwise requires.

The main proposition laid down by this rule is that sub-heading at the same level are comparable. This implies that a sub-heading can be compared only with another sub-heading within the same heading.

Classification of Parts

Classification of parts is subject to notes in Sections and Chapters. Question of classification of parts is relevant for parts of machinery, electrical equipment, vehicles, instruments, arms, furniture and toys.

Broadly, parts suitable solely for a particular machine generally fall in the same heading number in which main item falls. However, there are many exceptions –

- Parts of general use are not to be classified as part of any particular machine. 'Parts of General Use' are to be classified in their respective specified heads and not to be classified under the heading of the machine where they are used.
- Parts are to be classified as parts if separate heading is available for parts, (e.g. there is separate heading for parts of engine).

5. PROJECT IMPORTS

While the HSN system contains only 97 chapters, the Indian tariff has incorporated within itself Chapter 98 which, *inter alia,* pertains to Project Imports.

Project Imports are the imports of machinery, instruments, and apparatus etc., falling under different classifications, required for initial set up of a unit or for substantial expansion of an existing unit.

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Project Imports

Usually when in a project, where several different items are required and each of them is importable at different rates of customs duties, it becomes very complicated to make assessment of each item separately as per their individual classification. Therefore, for such project imports one consolidated rate of customs duty has been made applicable for all items imported under a project irrespective of the nature of the goods and their customs classification.

Further, individual exemption notification will apply even for items grouped under the said heading of the customs tariff liable to duty at the project rate as per recent Supreme Court judgement.

The items eligible for project import are specified in Heading 9801 of the Customs Tariff Act, 1975. These include all items of machinery, instruments, apparatus and appliances, components or raw materials etc. for initial setting up of a unit or for substantial expansion of the same. The spare parts, raw material and consumables stores not exceeding 10% of the value of the specified goods and subject to the prescribed conditions can be imported.

This scheme has been made applicable to Industrial Plants, Irrigation Projects, Power Projects, Mining Projects, Projects for Oil or Mineral Exploration and other projects as may be notified by the Central Government.

❖ **Some judgements on classification**

1. ***Saurashtra Chemicals v. CC 1986 (23) ELT 283 (Tri-LB) [approved by SC]***

   This case brings out the importance of section notes and chapter notes in the classification of goods. The Tribunal observed that Section Notes and Chapter Notes in the Customs Tariff are a part of the statute and thus are relevant in the matter of classification of goods. These notes sometimes restrict and sometimes expand the scope of headings. The scheme of the Customs Tariff is to determine the coverage of headings in the light of section notes and chapter notes. These notes, in this sense have an overriding effect on the headings.

2. ***CC v. Maestro Motors Ltd. 2004 (174) E.L.T 289 (S.C.)***

   In this case, the Court observed that if a tariff heading is specially mentioned in exemption notification, the general interpretative rules would be applicable to such exemption notification. But, if an item is

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specifically mentioned without any tariff heading, then exemption would be available even though for the purpose of classification, it may be otherwise.

3. *CC v. Hewlett Packard India Sales (p) Ltd. 2007 (215) E.L.T. 484 (S.C.)*

In this case the assessee was engaged in the manufacture of, and trading in, computers including Laptops (otherwise called 'Notebooks') falling under Heading 84.71 of the CTA Schedule. They imported Notebooks (Laptops) with Hard Disc Drivers (Hard Discs, for short) preloaded with Operating Software like Windows XP, XP Home etc. These computers were also accompanied by separate Compact Discs (CDs) containing the same software, which were intended to be used in the event of Hard Disc failure.

The assessee classified the software separately and claimed exemption. The court held that without operating system like windows, the laptop cannot work. Therefore, the laptop along with software has to be classified as laptop and valuation to be made as one unit.

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LET US RECAPITULATE

Rules of interpretation and explanatory notes

Rules of interpretation	General Explanatory Notes
Six	Three

General Explanatory Notes

Relevance of one dash ["-"] , two dash ["--"] and three dash ["---"]	• "-" denotes that the said article/group of articles is sub-classification of the article/group of article covered by the said heading. • "--" denotes that that the said article/group of articles is sub-classification of the immediately preceding article/group of articles which has "-". • " ---" or "----" denotes that the said article/group of articles is a sub-classification of the immediately preceding description of the article/group of articles which has "-" or "--"
"%" in relation to the rate of duty	• It means that the duty to be computed at the percentage specified on the value of the goods
Standard rate of duty applicable	• If no preferential rate of duty notified -standard rate of duty is applicable.

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Rules of interpretation of the First Schedule to the Customs Tariff Act

1	•General rule of classification
2(a)	•Classification of incomplete/unfinished articles
2(b)	•Classification of mixtures/combinations of a material/substance with other materials/substances
3	•Classification in case goods are classifiable under two or more headings
4	•Akin rule
5	•Classification of cases/containers used for packaging of goods and packing materials/packing containers
6	•Only sub-headings at the same level are comparable

Rules of Interpretation

Rule 1

Rule 1
General Rule

- Titles of sections/chapters/sub-chapters - ease of reference only
- Terms of headings read with relative section/chapter notes - legally relevant

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Rule 2

Rule 2(a)

Classification of Incomplete/Unfinished Articles

- If any particular heading refers to a finished/complete article - incomplete/unfinished/unassembled/ dis-assembled form of that article also classified under same heading
- If it has essential characteristics of finished goods

Rule 2(b)

Classification of Mixtures/Combinations of a Material/Substance with Other Materials/Substances

- Reference to a material/substance would refer to mixture/combination of that material/substance
- Reference to a material/substance would include reference to goods consisting wholly/partly of such material/substance

Rule 3- Classification in case goods are classifiable under two or more headings

Rule 3(a)-Specific over general	Rule 3(b) – Essential character principle	Rule 3(c) – Latter the better
•Heading providing a more specific description should be preferred over heading providing a general description.	•If goods cannot be classified under rule 3(a). •composite goods should be classified on the basis of that material/substance that gives it its essential character	•If goods cannot be classified by reference to rule 3(a)/3(b). •To be classified under heading which occurs last in numerical order

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Rule 4

Rule 4

Akin Rule

- If goods cannot be classified in accordance with the earlier rules
- to be classified under the heading in which the most akin goods are classified.

Rule 5

Rule 5(a)-Classification of cases/containers used for packaging of goods	Rule 5(b) – Classification of packing materials & packing containers
• Camera cases, musical instrument cases etc and similar containers - to be classified with a specific article/set of articles when of a kind normally sold therewith.	• Packing materials & packing containers presented with the goods therein to be classified with the goods, if they are of a kind normally used for packing such goods.
• Exception-When packing material itself gives the essential character as a whole	• Exception-Durable containers capable of repetitive use - to be classified separately.

Rule 6

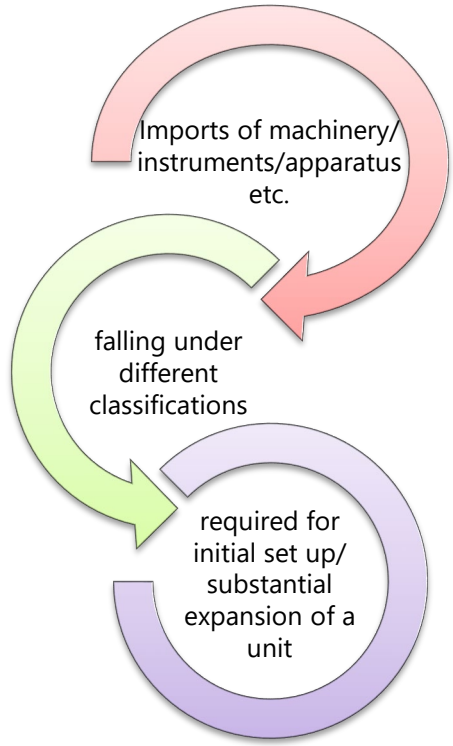
Rule 6

Only Sub-Headings at the Same level are comparable

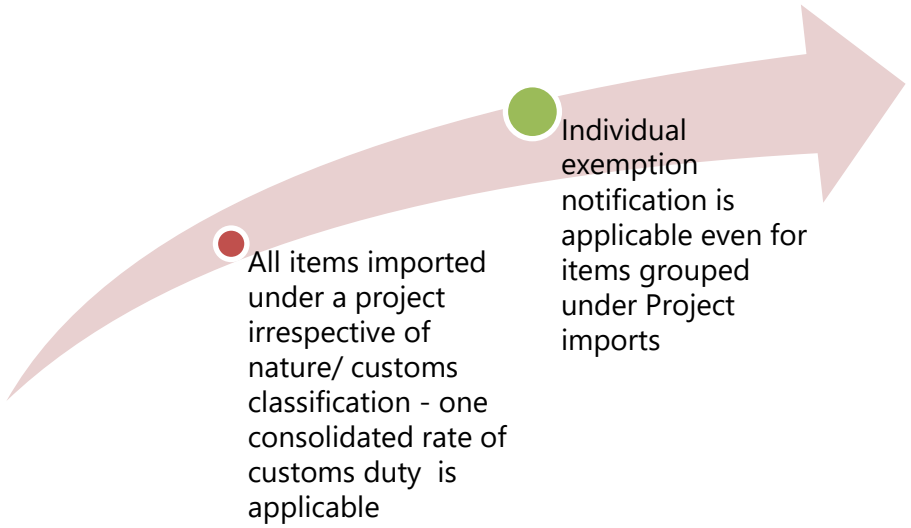
- A sub-heading can be compared only with another sub-heading within the same heading.

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Project Imports



Classification of Project Imports



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TEST YOUR KNOWLEDGE

1. *Briefly explain the provisions of rule 2(a) of Rules of Interpretation of the First Schedule to the Customs Tariff Act, 1975 on classification of incomplete/unfinished articles.*
2. *What is the purpose of including General Rules of Interpretation of First Schedule in Customs Tariff? Do they form part of the Tariff Schedule? Explain the Akin Rule of interpretation.*
3. *Write a note on "Project Imports" under the Customs Tariff Act, 1975.*
4. *Explain rule 3 of the rules for Interpretation of the Customs Tariff.*
5. *Briefly explain the meaning of abbreviation "%" in relation to the rate of duty*

ANSWERS/HINTS

1. The provisions of rule 2(a) of Rules of Interpretation of the First Schedule to the Customs Tariff Act, 1975 on classification of incomplete/unfinished articles are as under:-

If any particular heading refers to a finished/complete article, the incomplete/unfinished form of that article shall also be classified under the same heading provided the incomplete/unfinished goods have the essential characteristics of the finished goods.

Reference to an article will also include the article complete or finished (or failing to be classified as complete or finished) presented un-assembled or dis-assembled.

2. The Customs Tariff has a set of six General Rules for Interpretation of the First Schedule and three General Explanatory Notes. The six General Rules of Interpretation and three General Explanatory Notes are integral part of the Tariff Schedule. The purpose of their inclusion in Customs Tariff is to standardize the manner in which the nomenclature in the schedule is to be interpreted so as to reduce classification disputes.

Rule 4 of the Rules of Interpretation is called as akin rule. This rule lays down that goods which cannot be classified in accordance with rules 1, 2 and 3 of

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the Rules of Interpretation shall be classified under the heading appropriate to the goods to which they are most akin. In other words, akin rule' is a residual rule which is to be applied when classification is not possible by applying any of the earlier rules. It is a rule of last resort.

3. Project Imports are the imports of machinery, instruments, and apparatus etc., falling under different classifications, required for initial set up of a unit or for substantial expansion of an existing unit.

Heavy customs duty on imported machinery for projects make the initial project cost very high and project may become unviable. Hence, concept of 'project import' is introduced to bring machinery etc. required for initial setup or substantial exemption at concessional customs duty.

In a project several different items are required, each of which is importable at different rates of customs duties. Thus, this simple method is adopted, as otherwise, classifying each machinery and its parts in different heads and valuing them would have been cumbersome and would have delayed clearances, which would cause demurrages. Further, individual exemption notification will apply even for items grouped under the said heading of the customs tariff liable to duty at the project rate as per Supreme Court judgement.

The items eligible for project import are specified in Heading 9801 of the Customs Tariff Act, 1975.

The spare parts, raw material and consumables stores upto 10% of the value of goods can be imported.

Few of the eligible projects are:

(i) Industrial plant

(ii) Irrigation project

(iii) Power project, other than solar power plant or solar power project

(iv) Mining project

(v) Oil & mineral exploration project

(vi) Other projects as notified by the Central Government

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4. The application of this rule arises when the goods consists of more than one material or substance.

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:

Rule 3(a) – Specific over general

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

(ii) 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 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(b) – Essential character principle: 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 with reference to (a), shall be classified as if they consisted of material which gives them their essential character, in so far as this criterion is applicable.

Rule 3(c) – Latter the 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.

5. The abbreviation "%" in any column of the Schedule in relation to the rate of duty means that the duty shall be computed at the percentage specified on the value of the goods as defined in section 14 of the Customs Act.

The Headings cited in some of the examples/illustrations/case laws in this chapter may not co-relate with the Headings of the present Customs Tariff. Such references are included solely for the purpose of explaining and illustrating the relevant provisions.

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