



CLASSIFICATION OF EXCISABLE GOODS

Introduction

- Excise duty is always payable on excisable goods. Excise duty payable on excisable goods depend upon rate of duty which is determined on the basis of **Classification of goods** based on CETA (Central Excise And Tariff Act, 1985)
- Once the liability of the manufacturer to pay excise duty is settled, the next step is to determine the amount of duty this involves
 - a. Correct classification of goods
 - b. Determining their assessable value

Meaning

- Classification of a product means the determination of heading / subheading under which a particular product will fall. Classification means the appropriate classification code which is applicable to the excisable goods in question under the first schedule to the central excise tariff act , 1985 . There are section notes and chapter notes in the tariff which helped in classification..

Need / significance of classification

- **To know rate of duty:** excise duty is payable on excisable goods depends upon rate of duty. Rate of duty is laid by Central Excise And Tariff Act, 1985. before 1.03.86 when CETA came into effect , goods were classified in the first schedule to Central Excise Act, 1944. as the number of tariff item grew & became complicated, Central Excise And Tariff Act was passed to remove such difficulties.
- **Eligibility for exemption :** The classification of goods is required for the purposes of determining eligibility to exemption under section 5A which are with reference to the tariff heading or sub headings. Wrong classification would either cause loss of revenue to the central government or impose unjustifiable loss to assess.



GENERAL PRINCIPLES OF CLASSIFICATION

- Classification of goods involves choosing the right heading or sub- heading of the tariff and determining the appropriate rate for particular goods. Classification of goods is primary function of excise department. Apart from rules of interpretation which have precedence over other aspects , the general principles or guidelines for determining the classification of goods as follows:

Classification as per constituent materials

- Nature of the constituent material used in the manufacture of excisable goods is one of the parameters for determining the correct classification of excisable goods . The test for this is the “predominance of material “test. It is but natural that excisable goods should be classified in the chapter relevant for the constituent material since the functional characteristic or use of excisable goods is largely determined on the basis of their constituent input material.

Scientific or technical meaning vs. commercial or trade parlance

- Two major criteria for determining the classification of excisable goods are (i) the scientific or technical meaning and (ii) the trade or commercial parlance .
The scientific or technical meaning is the name attached to the goods by experts in the particular fields . Sections , chapter notes and tariff headings have statutory force and resort is made to common or trade parlance only when clear scientific or technical meaning is not available.

CLASSIFICATION OF GOODS ACCORDING TO FUNCTION OR USE

- The basic character function and use of goods is comparatively more relevant than the name or trade nomenclature of the product. When goods are specified in a tariff heading with reference to their specified names, the classification in a such a situation is to be done under such specified names and not on the basis of the function character. But when a substance is capable of being called more than one name, its classification has to be done such reference to the most appropriate name.

RESIDUAL ENTRIES

- Goods which cannot be brought under various specific entries in tariff are classified under residual entries . In other word , unless in the department can establish that the goods in question can by no conceivable process of reasoning be brought under any of tariff items resorts cannot be had to residuary items.

RELEVANCE OF EXPERT OPINION AND EVIDENCE

- As per the central excise rules , it is the responsibility of the excise officers to classify the goods under the appropriate heading of tariff , on the basis of the material or evidence available on record and after such enquiry as they may deem fit to conduct . In case any disputes regarding the nature of goods , the authorities should get the goods examined by an expert rather than making personal inspection of goods.

RELEVANCE OF I.S.I SPECIFICATIONS

- An article specified by the ISI or BIS (bureau of Indian standards) is certainly evidence of the fact that said article is known as such in the trade or commerce parlance since ISI specifications are with regard to quality of goods. The goods are to classified as per ISI specifications in the absence of relevant definition in the excise tariff. But ISI specifications or terms can only be used as supportive material as per expert opinion.

BURDEN TO PROVE CLASSIFICATION

- Normally , it is the responsibility of the department to establish the correct tariff heading under which the product falls. The burden to prove a particular classification is initially on the department and once it is discharge by submitting of prima facie evidence or material , then it is shifted to and lies ultimately on the assessee , because it is he who has exclusive and special knowledge about the product produced by him

RELEVANT POINT OF TIME FOR CLASSIFICATION

- The supreme court has given the ruling in “wallace flour mill” case that taxable event is manufacture of goods under central excise act. So classification of goods would on the basis of tariff heading as applicable at the time of removal rather than at the time of manufacture.

Classification of goods similar relevance for exemption

- In view of section 20 of general clauses act , the meaning of goods should be same for ‘ exemption’ as it is for purpose of classification . However the onus of proving chargeability of the duty on the department and proving exemption from duty on the manufacturer claiming the exemption.

Interpretative rules for classification

The Central Excise Tariff Act, 1985 incorporates five Rules of interpretation, which together provide necessary guidelines for classification of various products under the schedule.

As regards the Interpretative Rules, the classification is to be first tested in the 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 & 4 in seriatim.

The provision of the individual Rule is as follows:

Rule 1: Titles of Sections and Chapter not determinative

- This rule provides that section and Chapter titles are only for the ease of reference and, therefore, do not have any legal bearing on the classification of goods, which is determined according to the terms of headings and relevant section or Chapter notes and according to the other interpretative rules if such headings or notes do not otherwise require.
- Thus goods are to be classified in terms of the heading and relative sections or Chapter notes without recourse to any interpretative rules. It is only when the goods cannot be classified on this basis, the assistance is to be sought from the interpretative rules.

Rule 2 : Scope of reference in a heading to incomplete/unassembled goods

2(a) This rule provides classification of an article referred to in a heading, even if that article is incomplete or unfinished, or is presented in an unassembled or disassembled form. An important condition to be satisfied for classification in this manner is that in its incomplete or unfinished state, the article has the essential character of the complete or finished article. Some of the important aspects which are relevant in this regard are functional aspect, physical aspect and the degree of completion of the product.

2(b) This rule relates to mixture or combination of materials or substances, and goods consisting of two or more materials or substances. According to this rule headings in which there is a reference to a material or substance also apply to that material or substance mixed or combined with other materials or substances. This rule does not apply where specific provisions exist in the headings or the sections or chapter notes excluding such classification.

Rule 3 : goods classifiable under two or more headings

This rule lays down three steps for classifying the goods which are, prima facie, classifiable under several headings. The sequential order of the steps contemplated are -

- (a) most specific description;
- (b) essential character; and
- (c) heading which occurs last in numerical order;

This rule applies when goods are prima facie classifiable under 2 or more headings.

- In the first step, {Rule 3(a)} the general guidelines are that a description by name is more specific than the description by character and a description which identifies the goods clearly and precisely is more specific than the one which is less complete.



The second step [Rule 3 (b)] relates only to mixtures, composite goods consisting of different materials or components and goods put up in sets.

This rule finds applicability if rule 3(a) does not help. In all such cases the goods are to be classified as if they consist of material or components which gives them their essential character.

- When goods cannot be classified with reference to Rules 3(a) and 3(b), they are to be classified in terms of Rule 3(c)- in the heading which occurs last in numerical order among those which equally merit consideration. This is a fall back provision for resolving the matter when no heading can be regarded as providing a more specific description than the others and when it is not possible to identify the material or component which gives the concerned goods their essential character.

Rule 4 : Classification under a heading most “akin to goods”

- If rules 2 and 3 fail, they shall be classified under the heading appropriate to the goods to which they are most akin. The relationship has to be established by description , purpose, and use of the goods. For example : If burfi made of sugar has is no tariff entry covering it the akin goods are sugar confectionary (chapter 17). This rule is also called residuary rule or last rule of classification. The rule is applicable when no specific heading exists in the tariff for a particular product.

Rule 5 : classification of containers

This rule provides the needed supplementary provision in regard to the classification of containers (packing materials)

Rule 5(a) : wrist watch, camera, gun, musical instrument, drawing instrument, necklace etc are sold in cases specially made to contain them. The packing takes the classification of the goods inside.

Rule 5(b) : Rule 5(a) is applicable to normal packing met with in trade (e.g.) camera packing. The case is classified as camera. If the camera imported is in “Gold case”, then rule 5(b) is not applicable.

However this rule is not applicable to container suitable for repetitive use.

Rule 6 : Determination of classification under a sub-heading

- This Rule is applicable on the assumption that only sub-headings at the same level are comparable. If one heading contains 5-6 sub-headings, these sub-headings can be compared with each other. However sub-headings under one heading cannot be compared with sub-heading under a different heading.