

HSN – Meaning and classification

Letter Of Credit – Type & Difference

India's Foreign Trade Agreements

HSN – Meaning & Implications

- ❖ The acronym HSN stands for **Harmonised System of Nomenclature**.
- ❖ The Harmonised Commodity Description and Coding System generally referred to as "Harmonised System" or simply "HS" is a multipurpose international product nomenclature developed by the World Customs Organization (WCO).
- ❖ It is an internationally standardized system of names and numbers to classify traded products.
- ❖ It came into effect in 1988 and has since been developed and maintained by the World Customs Organization (WCO)
- ❖ It has about 5,000 commodity groups, each identified by a six-digit code, arranged in a legal and logical structure.

It is supported by well-defined rules to achieve uniform classification.

Over 98% of the merchandise in international trade is classified in terms of the HSN.

HSN Codes for each commodity is accepted by most of the countries. The HSN number remains same for almost all goods.

However, HSN number used in some of the countries varies little, based on the nature of goods classified.

It is also extensively used by governments, international organizations and the private sector for many other purposes such as :

internal taxes, trade policies, monitoring of controlled goods, rules of origin, freight tariffs, transport statistics, price monitoring, quota controls, compilation of national accounts, and economic research and analysis.

The HS is thus a universal economic language and code for goods, and an indispensable tool for international trade

HSN – Indian Context (Customs Act Tariff Act)

The Government of India, Mof, DoR, CBIC issued Letter vide D.O.F.No.524/11/2021-STO(TU) dated December 20, 2021 to notify HSN amendments in Custom Tariff Act, 1975 from January 01, 2022 so as to align the same with HS 2022.

The new (seventh) edition of the Harmonized System (HS) nomenclature, HS-2022, shall come into force from January 01, 2022.

This edition has introduced significant changes to the Harmonized System with a total of 351 amendments at the six-digit level, covering a wide range of goods moving across borders.

As India is a party to the HS convention, & in order to align the first schedule of Customs Tariff Act, 1975 with the HS 2022 necessary changes were brought in, through the Fifth Schedule to the Finance Act, 2021,

These shall come into effect from January 01, 2022.

Also, for ease of transition to the HS 2022, a guidance document on correlation has been prepared by CBIC.

The document can be accessed under the head -`Manuals' under the tab-`Customs' on the CBIC website.

Interlinking between HSN used in Customs & GST Act

Notification of Rate of Tax Under GST :

The Central government on recommendation of GST council has notified rate of Integrated tax payable on goods vide notification no. 01/2017 – Integrated tax (rate) dated 28/06/2017.

It may be noted that notifications regarding central tax (CGST) issued by Central govt and notification regarding state tax (SGST) issued by respective State Govt have identical provisions.

the schedules in notifications issued by respective government as discussed above, has reference to chapter, heading, sub heading and tariff items.

Explanation at the end of each of the above notifications inter alia provides :

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

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

Therefore, it is implied by virtue of above explanation, the classification of goods has to be done in accordance with Customs Tariff Act 1975. However, once the heading/tariff item is arrived at, the rate of GST would be governed by above notifications.

Particulars	Description	Meaning	Example
Section	Broad category	The Custom Tariff Act 1975 is divided into 21 sections	Textile & Textile Articles
Chapter	Specific description	The 21 sections are further divided into 98 Chapters.	Articles of apparel and clothing accessories, knitted or crocheted
Heading	Next 2 Digits	Each chapter is further divided into various "headings" accompanied by a four digit number.	Men's or boy's shirts, knitted or crocheted
Sub-heading	Next 2 Digits	Each heading is further divided into various "sub headings" accompanied by a six digit number, thus first 6 digits of an 8 digit HSN codes denote the sub heading under which it falls.	Of Cotton
Tariff heading /item	Next 2 Digits	: Each Sub heading is further divided into various "tariff items" accompanied by a eight digit number, thus all 8 digits of HSN code denotes the tariff item.	Shirts, hand crocheted

Classification of Goods - Why Important

Classification of Goods under Customs Act is essential to decide the rate of duty.

The Classification of goods would continue to be very important unless all goods attract the same rate of duty

Correct Classification of goods has an important bearing on a number of other connected substantive and procedural importance :

Correct classification is important in determining whether :

All the classification has been done correctly according to the proper rules of classification

Special benefit of concession/duty exemption under a Notification be availed

Benefit of any exemption from duty partial or complete is available appropriate to the relevant classification.

Rules for Interpretation of Tariff Rules :

The interpretation of the Tariff schedule is strictly governed by six "Interpretative Rules" incorporated in First Schedule itself.

These rules are scientific set of principles which will be applied while arriving at classification of a particular product.

These rules need not be referred to when the section notes and chapter notes or very entries in the tariff are very clear about the classification.

These rules for interpretation of tariff are applicable only when classification of a product cannot be determined in accordance with Heading/Section/Chapter Notes

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 and, provided such headings or Notes do not otherwise require, according to the subsequent rules.

Explanation :

The words in the Section and Chapter titles are to be used as guidelines ONLY to determine the area of the Tariff in which the product to be classified is likely to be found. Articles may be included in or excluded from a Section or Chapter even though the titles might lead one to believe otherwise.

if the goods to be classified are covered by the words in a heading and the Section and Chapter Notes do not exclude classification in that heading, the heading applies.

So find a Heading that is worded in such a way as to include the product in question. And carefully check the Section and Chapter notes to see if the product is mentioned specifically as being included or excluded.

Example: If we were importing Christmas tree candles, it would seem logical to classify them with Classification Number 9505.10.00.90: “Other, articles for Christmas festivities”.

However, when reading the Notes to Chapter 95, it clearly states this Chapter **does not cover Christmas tree candles**.

In fact, we must classify them with the Classification Number 3406.00.00.00: Candles, tapers and the like.

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.

Explanation:

Rule 2 (a) deals with the classification of unfinished, incomplete, unassembled or disassembled goods.

Unfinished and incomplete goods can be classified under the same Heading as the same goods in a finished state provided that they have the essential character of the complete or finished article.

As well, unassembled or disassembled goods may also be classified the same as the complete finished product. This rule does not apply if the text of the Heading or the relevant Legal Notes exclude the unfinished or unassembled product in question.

Example: An automobile missing only its wheels would be classified the same as if it were complete.

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.

Explanation :

It basically states that a Heading referring to a given material or substance includes mixtures of that substance with others. Similarly, a reference to a product composed of a given material or substance includes products composed either wholly or partly of the material or substance.

This means that a mixed product may seem to be eligible for classification under two or more Headings. However, a given product can legally only be classified under one Heading. Rule 3 must be used to decide between alternate Headings.

Example : If we were importing di-calcium citrate, the Tariff does not specifically state this compound. However, it is a compound containing more than one material and its essential character is that of a salt of citric acid. Therefore, di-calcium citrate qualifies as Classification Number 2918.15.90.19: "Salts and esters of citric acid, Other".

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:

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

Explanation : Rule 3 (a) states that where 2 or more Headings seem to apply, the one which provides the most specific description of the product in question should be used. This means that a Heading which names the actual product should be used in preference to one which only names a category to which the product could belong.

Example: Mint tea is not stated specifically, as a product, in the Tariff. Although the product descriptions available are mint and tea, the importer must classify mint tea under the appropriate tea Heading because it provides the most specific product description and mint is only the flavour of the tea.

(b) 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 3(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.

Explanation: -Rule 3 (b) applies to mixtures, composite goods and sets that cannot be classified by use of the previous Rules. These should be classified as if they consisted of the material or component which gives them their essential character.

Example: An importer bringing in "liquor gift sets" (that include the bottle of liquor and glasses) must classify the goods under the appropriate liquor Heading. The essential character of the item is the liquor itself and not the glasses contained within the set.

(c) When goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading **which occurs last** in numerical order among those which equally merit consideration

Explanation: Rule 3 (c) is for use in cases in which a good seems to fit in more than one Heading and the essential character cannot be determined. In this case, the product should be classified under the Heading which occurs last in numerical order.

Example: A gift set which includes socks (Heading number 6115) and ties (Heading number 6117) cannot be classified by the previous rule since neither item gives the gift set its essential character. The gift set must be classified under the Heading number for ties which is the Heading that occurs last in numerical order.

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.

Explanation: This is a "last resort" rule, most often used with new products.

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 Rule 5 (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.

Explanation : Rule 5 (a) deals with containers which:
are shaped or fitted for the article they will contain,
are suitable for long-term use,
protect the article when not in use,
are of a kind normally sold with such articles,
are presented with the articles they are designed to contain.

Containers which have these characteristics can be classified with the products which they contain.

Example: Rule 5 (a) would apply to flute cases because flutes are normally sold with their cases (due to their specific shape) and are intended for long term use.

Explanation: Rule 5 (b) deals with other types of containers and packing materials.

These should be classified with the goods they contain if they are of a kind normally used for packing such goods and are not suitable for repetitive use.

Rule 6: For legal purposes, the classification of goods in the **subheadings** of a heading shall be determined according to the **terms of those subheadings** and any related Subheading Notes

and

mutatis mutandis, to the above Rules, on the understanding that only **subheadings at the same level are comparable**.

For the purpose of this Rule the relative **Section and Chapter Notes** also apply, unless the context otherwise requires.

Some Case Studies

In 'Commissioner of Central Excise, Chennai V. Toyota Tsusho Private Limited' – 2015 (12) TMI 480 - SUPREME COURT

the respondent imported 'beef leather cut pieces set TFC 235 set' which was classified under Customs Tariff Heading 4115 20 90 for which the exemption was claimed under Notification No. 21/2002.

The Department, after examining the goods, took the view that the aforesaid goods were classifiable under Chapter 42 viz., 4205 00 90 which attracted duty @ 15% + CVD 16% + EC 2% and levied a duty of ₹ 22,86,812/-.

The Commissioner (Appeals) upheld the classification of the Revenue.

The Tribunal accepted the appeal of the assessee and classified the goods under Chapter Heading 4115 20 90 as 'beef leather cut pieces set TCF 235 set'.

The Supreme Court was, during the course of arguments, shown two other Chapter Headings 87, 97 and 94.

The Supreme Court felt that it would have been more appropriate for the Tribunal to look into the aforesaid Chapter entries as a whole and then come to a definite conclusion, in the light of the definition of the goods involved as to which the most appropriate entry under which they fall.

In 'Samsung India Electronics Private Limited V. Commissioner of Customs, Noida' – 2015 (10) TMI 2258 - CESTAT NEW DELHI the Tribunal considered the issue to be decided is that whether Liquid Crystal Devices (LCDs) is classifiable under Tariff item 9013 80 10 or 8529 9090 of Customs Tariff Act, 1975.

The goods imported include components comprising driver, circuit, backlight, unit and inverter etc., which according to the Revenue are parts of LCD TVs covered under Heading 8529.

The Tribunal held that the said components are also devices in their own right, individually and in combination, and as liquid crystal panel is one of the components, impugned goods are covered under term 'LCDs'.

LCDs is specifically mentioned in Head 9013 by name and Tariff item 9013 80 10 exclusively covers only LCDs. In contrast, the description in Heading 8529 'as parts suitable for use solely or principally with apparatus of Headings 8525 to 8528 is general in nature.

Section Note 2 (b) of Sec. XVI of Customs Tariff Schedule, relied on by Revenue covered only goods under Chapters 84 and 85 and not applicable to Chapter 90 as per Note (1)(m) of Sec. XVI.

n 'Binani Cements Limited V. Union of India' – 2013 (7) TMI 798 - GUJARAT HIGH COURT

The High Court held that the Court does not encourage litigation at the stage of the issue of show cause notice as noticee would have sufficient opportunity to meet with all obligations and produce such material on record as may be required to refute the same. Therefore the instant petition challenging the show cause notice issued questioning classification of coal by the petitioner was rejected by the High Court.

The High Court further held that when several questions of fact as well as law would arise i.e., classification between steam and bituminous coal, properties of coal imposed by petitioner etc., which cannot be judged without adjudication by departmental authorities. Further as statute provides mechanism for adjudication of disputes and as petitioner neither contended nor established any inherent lack of jurisdiction or gross violation of principles of Natural Justice on part of Adjudicating Authority

n 'AGS Transact Technologies Limited V. Commissioner of Customs (Import), Nhava Sehva' –

2013 (5) TMI 808 - CESTAT MUMBAI the appellants imported cash dispenser declaring it as ATM and availed the benefit of exemption under Notification No. 25/2005-Cus, dated 01.03.2005. The Revenue classified the goods under Heading 8472 90 30 denying the exemption. The Revenue contended that machines with facility to receive or accept cash is not ATM. The Tribunal held that the classification of goods is to be determined by commercial identity test and not by functional test. The Tribunal found that Procash 1500Xe not only dispense cash but also perform the other bank transactions like balance enquiry, cheque book request, statement request, pin change, fund transfer, mini statement etc., but not having the facility of the cash/cheque deposit. The same shall be construed as ATM in the absence of clear findings. The Tribunal remanded the matter to the original authority.

In 'Commissioner of Customs, New Delhi V. Capital business systems Limited' – 2011 (3) TMI 1570 - CESTAT NEW DELHI the matter involved in this case is the classification of a printer imported by the respondent.

As per the technical specifications the printer can print on paper, synthetics, labels, foils, thermostatic stocks. The Assistant Commissioner classified the goods under 84436090. The Commissioner (Appeals) classified under 84716026. The Revenue objected to this classification for the reason that it is huge in size as compared to ordinary printers used along with computer and for the reason that it can print material other than paper. The relevant chapter notes do not decide the issue based on the size of printer satisfies the condition laid down in Chapter Note 5 (B) of Chapter 84.

Further it specifically satisfies conditions laid down in Notes 5(B)(b) and 5(B) (c) of Chapter 84 and therefore in view of Note 5(D), it is classifiable under Heading 8471 only. Further Tariff item 84716026 specifically covers Laser Jet Printer. Such being the case the item cannot be taken to Heading 8443 for Printing Machinery used by printing by means of the printing type, blocks, plates, cylinders and other printing components of Heading 8442. This machine does not make use of printing type, blocks, plates, cylinders and other printing components of Heading 8442. So the impugned order is clearly classifiable under Tariff item 84716026.

The assessee was engaged in manufacturing car matting products which are used as floor mats inside a vehicle.

The assessee was of the opinion that such goods come under tariff entry 5702/03 under Chapter 57 (Schedule 1, Central Tariff Act) dealing with carpets and other textile floor coverings having a rate of duty of 8% and paid tax accordingly.

However, the revenue issued a show-cause notice claiming that car matting should come under the tariff entry 8708 under Chapter 87 (Schedule 1, Central Tariff Act) dealing with parts and accessories of motor vehicles attracting a rate of duty of 16% and demanded for pending tax and incidental penalties.

A dispute arose through litigation and after respective commissioners gave orders favouring the revenue, CESTAT passed an order favouring the assessee which was challenged before the Supreme Court in the instant matter.

Arguments of the Revenue

Firstly, the revenue contended that car mattings should be treated as car accessories rather than textile coverings by referring to “Harmonized Commodity Description and Coding System”, Explanatory Notes issued by the World Customs Organisation in 2002 (“HSN Notes”).

Under Section XVII and sub-heading III of the HSN Notes, there are explanatory notes provided for the category of “Parts & Accessories”.

These notes state that a product would not come under this category unless it is principally used as a part or accessory used in vehicles coming under Chapters 86 to 88.

It also states that a product would be excluded from being a part or accessory if it is more specifically covered in a different chapter through means of nomenclature.

The revenue contended that car mattings are for specific use in a car only and hence being an accessory to a car or a vehicle becomes its principal use.

As a result, it contended that car mattings would be more identifiable as a car accessory than a textile carpet.

Lastly, the arguments involving the tests of “popular meaning”, “common parlance” and “marketability” were also considered.

These three tests have been developed through judicial precedents over the years and have been held as a deciding factor when disputes and confusion arises towards classifying a good or product under the appropriate or correct tariff heading.

Although these tests are corollary to each other and have similar meanings and implications, they have been developed and observed through different judgments.

These tests talk about how a product is understood and referred to in the popular meaning of it by consumers in the market.

Where there is evidence as to the popular use or reference of a product in a particular category, the product is held to be classified under such category as the product is understood in such a manner in the common parlance.

Observation of Court

The core issue to be decided by the Supreme Court was whether the product of car mattings should be classified under Chapter 87 or Chapter 57 of the Central Excise Tariff of India, i.e, whether they should be considered a product within the category of parts & accessories of motor vehicles or that of carpets & textile floor coverings.

In regard to the above CEGAT judgments cited by the revenue wherein orders were passed where car mattings were classified under Chapter 87, the Court first observed that given the lack of any proper justification or direct negation of or engagement with a competing argument of classifying car mattings under Chapter 57, such decisions do not hold good to reason.

Secondly it observed that the orders being that passed by CEGAT do not hold any precedential value before the Supreme Court. The judgment of the Supreme Court mainly based itself on the HSN Notes in regard to rules of classification discussing how a product should be classified in cases where a product may come under multiple headings.

The rules state that a specific description must be preferred over a wider description meaning thereby that a description under a tariff heading which clearly identifies a product in a better manner than the other description of a possible heading, the former should always be preferred.

This rule has been given under Explanation Note IV (b) to Rule 3(a) under the Rules of Interpretation of the HSN Notes. The rule is similar to Clause 3(a) of the General Rules of Interpretation of the First Schedule to the Central Tariff Act, 1985.

Most significantly, the explanatory rule in the HSN Notes contains an example to it which directly deals with the issue at hand.

The relevant excerpt is reproduced under:

“(iv) It is not practicable to lay down hard and fast rules by which to determine whether one heading more specifically describes the goods than another, but general it may be said that:-

(a). ** ** *

(b) If the goods answer to a description which more clearly identifies them, that description is more specific than one where identification is less complete.

Examples of the latter category of goods are:

(1) Tufted textile carpets, identifiable for use in motor cars, which are to be classified not as accessories of motor cars in heading 87.08 but in heading 57.03, where they are more specifically described as carpets.

(2). **”

As can be observed from the first example above, textile carpets which are used in motor cars are to be classified under heading 57.03 (of the HSN Notes) rather than under heading 87.08.

The example is given as a practical example to preferring of a specific heading over a wider heading in terms of identification of a product.

The example applies on all fours to the core issue before the Court and directly answers the question of classification of car mattings.

The above excerpt was also observed and accepted by the CESTAT in its order favoring the assesses and which set aside the commissioner's order favoring the revenue.

Accepting the explanatory note IV in the HSN Notes and placing strong reliance on the example which co-incidentally deals directly with the issue at hand,

the Supreme Court disregarded the judicial tests of common parlance and marketability to determining the issue of classification.

The Court observed that such tests of interpretation are only to be used and considered where there is a possibility of a particular good to come under entries of multiple heads.

However, in the present case, explanatory notes to the HSN Notes and chapter notes under Chapter 57 show that firstly, car mattings have been specifically excluded from Chapter 87 and secondly, textile carpets include all kinds of floor coverings where the textile materials serve as the exposed surface of an article when in use.

Further, the Court also observed that revenue classified car mattings under tariff entry 8708 (“other”) which is a residuary entry and not specific, whereas the tariff entry of 5703 directly deals with floor coverings and is more specific.

As a result, the product is clearly more identifiable under Chapter 57 and there was no necessity to use interpretive tests of common parlance and marketability. The relevant excerpts from the judgment are reproduced as under:

M/S. Holostick India Ltd vs Commnr. Of Central Excise, Noida on 30 March, 2015

The appellant manufactures security holograms.

At the very beginning of the manufacturing process, they use coated metallised film which we are informed is classified under Tariff entry 39.20.36 after which the said film is embossed.

Post embossing, there is adhesive coating and release coating which results in a hologram which ultimately is cut to size and utilised by customers of the appellant for security purposes.

In the show cause notice dated 04.02.2000, the Department sought to classify the security hologram under Tariff entry 39.19 of the Central Excise Tariff 1999-2000

In the reply dated 15.05.2000, the appellant disputed this and stated that, in fact, the holograms ought to be classified under Tariff entry 49.01.

The Commissioner, Central Excise, by an order dated 01.01.2002 agreed with the Department's classification and classified the said goods under Tariff entry 39.19. An appeal to the Customs, Excise & Service Tax Appellate Tribunal (hereinafter referred to as 'CESTAT') by the appellant was dismissed.

"39.19

3919.00 - Self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastics, whether or not in rolls.

39.20 Other plates, sheets, film, foil and strip, of plastics, non-cellular, whether lacquered or metallised or laminated, supported or similarly combined with other materials or not

Of other plastics:

3920.36 - - Flexible, metallised

49.01 Printed books, newspapers, pictures and other products of the printing industry; manuscripts, typescripts and plans

Argument by Appellant :

learned counsel appearing for the appellant, has raised a number of arguments before us. According to him, a reference to the Rules for Interpretation of the First Schedule to Central Excise Tariff Act, 1985, when properly read, would necessarily yield the result that the said goods would fall only under Entry 49.01. In the course of the argument, he also referred to the Harmonised System of Nomenclature (called 'HSN') Explanatory Notes

Argument by Respondent

Apart from the reasoning of the Tribunal, according to him, entry 49.01 would not at all apply if the ejusdem generis Rule is applied to the various items contained therein.

Another argument was that viewed at from any angle Tariff entry 39.19 is a specific entry dealing with self-adhesive items of plastic, and printing on such items being merely incidental to such products would require us to maintain the classification post entry 39.20 under entry 39.19 and not under entry 49.01.

Discussion and finding :

The real question, therefore, in this appeal is the application of Note No. 2 to entry 49, which reads as follows: -

"Except for the goods of Heading No. 39.18 or 39.19, plastics, rubber and articles thereof, printed with motifs, characters of pictorial representations, which are not merely incidental to the primary use of the goods, fall in Chapter 49."

It is clear therefore, that the question resolves itself into whether printing is only incidental to the primary use of the goods or is something more than something merely incidental.

It is important to remember therefore, that the primary use of the product is security and not the quality of being adhesive.

We do not think it necessary to go into any of these Rules for the purposes of this judgment inasmuch as we have found as a fact, in accordance with Note 2 to entry 49, that the security hologram part of the product in question is primary and

the self adhesive part only incidental insofar as the user of the said goods is concerned. With the above observations, the appeals are allowed.

Letter of Credit

Letter of Credit :

A [letter of credit](#) is an important financial tool in trade transactions. Trades use the LC to facilitate payments and transactions in both domestic and [international markets](#). A bank or a financial institution acts as a third party between the buyer and the seller and assures the payment of funds on completion of certain obligations.

Because counterparties in many transactions are (relatively) unknown to one another, it's common for one party to demonstrate its [creditworthiness](#) by tapping into its primary banking relationship and asking that bank to issue an LC on its behalf.

Letters of Credit are especially common for cross-border transactions where trust and timing issues are exacerbated by other factors like political and shipping risk, as well as limitations around security registration.

A letter of credit (LC) is a bank-issued document that affirms the seller. On behalf of the buyer, the bank guarantees payment upon delivery of the goods or services.

It is a form of negotiable instrument whereby the buyer makes an unconditional promise to pay. The seller or beneficiary can also transfer the LC to another party to further mitigate their liability.

A letter of credit is issued against a pledge of securities or cash. Banks typically collect a fee, ie, a percentage of the size/amount of the letter of credit.

A Letter of Credit (LC) is issued by a buyer's bank to ensure timely, full payment to the seller. If buyers default, the bank pays sellers on their behalf. Therefore, an LC is used for mitigating credit risks.

The 'International Chamber of Commerce Uniform Customs and Practice for Documentary Credits' oversees letters of credit used in international transactions.

Along with the LC, the seller needs to furnish various documents like an airway bill, packing list, commercial invoice, insurance certificate, certificate of origin, certificate of inspection, and lading bill.

Sellers get paid only after providing all those documents.

The issuing bank acquires the amount from the buyer. Subsequently, the amount is released in favor of the seller, beneficiary, or the beneficiary's negotiating bank.

Commercial LC

The [commercial LC](#) is the most basic form of an LC. It is a standard LC, also called a documentary credit.

In a commercial LC, the importer issues the LC with the exporter as the beneficiary. The issuing bank transfers it to the advising bank, which then makes payment to the exporter upon presentation of the necessary documents and proof on meeting the terms and conditions as set out in the purchase document/agreement.

The same LC becomes an [export or import LC](#) depending on who uses it. The exporter will term it as an exporter letter of credit, whereas an importer will term it as an importer letter of credit.

Transferable LC

A letter of credit that allows a beneficiary to further transfer all or a part of the payment to another supplier in the chain or any other beneficiary is a [transferable LC](#).

This generally happens when the beneficiary is just an intermediary for the actual supplier. Such LC allows the beneficiary to provide its own documents but transfer the money further.

Un-transferable LC

An untransferable letter of credit doesn't allow the transfer of money to any third parties. The beneficiary is the only recipient of the money and cannot further use the letter of credit to pay anyone.

Revocable LC

A revocable LC is an LC that issuing bank or the buyer can alter at any time without any notification to the seller/beneficiary. Such types of letters are not in use frequently as the beneficiary is not provided any protection.

Irrevocable LC

It is an LC that does not allow the issuing bank to make any changes without the approval of all the parties.

Standby LC

A [standby letter of credit](#) assures the payment if the buyer does not pay. After fulfilling all the terms under SBLC, if the seller proves that the promised payment was not made. In this situation, the bank will pay the seller. In a nutshell, it does not facilitate a transaction but guarantees payment. It is quite similar to a [bank guarantee](#).

Confirmed LC

Although a commercial LC transfers the creditworthiness from the importer to the issuing bank, there is still a chance that even the issuing bank is unable to make the payment. So, the exporter can seek additional protection by getting confirmed LC where the advising bank also ensures the payment. This is primarily to avoid the risk of non-payment from the first bank. It will add to the cost of doing business for the exporter.

Unconfirmed LC

A letter of credit that is assured only by the issuing bank and does not need a guarantee from the second bank. Mostly the letters of credit are the unconfirmed letter of credit.

Revolving LC

When a single LC is issued for covering multiple transactions in place of issuing a separate LC for each transaction is called a [revolving LC](#). There can be multiple withdrawals from the LCs till it reaches the pre-set limit. They can be further classified into Time Based (Could be Cumulative or Non-Cumulative) and Value-Based. Such LCs are usually for the long term and are not transaction-dependent.

Back to Back LC

[Back-to-back LC](#) is an LC that commonly involves an intermediary in a transaction. There are two letters of credit, the first issued by the bank of the buyer to the intermediary and the second issued by the bank of an intermediary to the seller.

Sight LC

A [sight letter of credit](#) that demands payment on submitting the required documents. The bank reviews the documents and pays the beneficiary if the documents meet the conditions of the letter.

Deferred Payment LC

A normal LC requires the payment to the exporter upon submission of the necessary proofs and documents for complying with the shipment terms and conditions. On the other hand, a [deferred LC](#) gives some time to the importer after the receipt of the goods or commencing the shipment before he is required to pay the amount. It is beneficial in an established working relationship where the importer can only get funds for payment after he has started selling his goods. This is one kind of credit transaction in the normal course of business. However, secured through a proper LC. It is also known as [Usance LC](#).

Inland LC

An inland letter of credit is of use in domestic trade transactions, where both the buyer and seller are from the same country. It is used for transactions in the home country. The other term for it is the 'domestic letter of credit.'

Mixed Payments Letter of Credit

Such LCs can have multiple payment terms as well as multiple payment modes. For example, 50% of the payments happen on sight. Another 25% of payments occur after 30 days of shipment. And the remaining 25% of payments will happen on receipt of the shipment.

There are different types of trade agreements that enable preferential market access between India and signatory countries or trade blocs –

- preferential trade agreements (PTA),

- free trade agreements (FTA),

- Comprehensive Economic Cooperation Agreements (CECA)

- and Comprehensive Economic Partnership Agreements (CEPA).

A preferential trade agreement (PTA) involves two or more partners agreeing to reduce tariffs on an agreed number of tariff lines (products).

The list of products on which the partners agree to reduce duty is called the positive list.

In general, PTAs do not cover substantially all trade. The India Mercosur Preferential Trade Agreement is an example of a PTA.

A free trade agreement (FTA) also involves reducing or eliminating tariffs on items traded between the partner countries; however each maintains individual tariff structure for non-members.

The key difference between an FTA and a PTA is that PTAs have a positive list of products on which duty is to be reduced, while an FTA uses a negative list on which duty is not reduced or eliminated.

Thus, compared to a PTA, FTAs are generally more ambitious in coverage of tariff lines on which duty is to be reduced. The India Sri Lanka Free Trade Agreement is an example of an FTA

FREE TRADE AGREEMENT WITH VARIOUS COUNTRIES / REGIONS

A Free Trade Agreement (FTA) is an agreement between two or more countries to reduce trade barriers in imports and exports among them.

These agreements deal with the determination of the tariffs and duties that are imposed by the countries on imports and to reduce trade barriers and thereby strengthen the bilateral or multilateral trade relations.

With FTA, goods and services can be exchanged across international borders with limited or no government tariffs, quotas, or subsidies.

A free-trade policy may simply be the absence of any trade restrictions.

The idea of FTA is the opposite of the concept of trade protectionism or economic isolationism.

In the current world, free trade policy is often implemented through a formal and mutual agreement of the nations involved.

So far, India has signed 13 Free Trade Agreements (FTAs) with its trading partners, including the 3 agreements, namely India-Mauritius Comprehensive Economic Cooperation and Partnership Agreement (CECPA), India-UAE Comprehensive Partnership Agreement (CEPA) and India-Australia Economic Cooperation and Trade Agreement (IndAus ECTA) signed during the last five years. The list of FTAs signed by India is as under

SN	Name of the Agreement
1	India-Sri Lanka Free Trade Agreement (FTA)
2	Agreement on South Asian Free Trade Area (SAFTA) (India, Pakistan, Nepal, Sri Lanka, Bangladesh, Bhutan, the Maldives and Afghanistan)
3	India-Nepal Treaty of Trade
4	India-Bhutan Agreement on Trade, Commerce and Transit
5	India-Thailand FTA - Early Harvest Scheme (EHS)
6	India-Singapore Comprehensive Economic Cooperation Agreement (CECA)
7	India-ASEAN CECA - Trade in Goods, Services and Investment Agreement (Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam)
8	India-South Korea Comprehensive Economic Partnership Agreement (CEPA)
9	India-Japan CEPA
10	India-Malaysia CECA
11	India-Mauritius Comprehensive Economic Cooperation and Partnership Agreement (CECPA)
12	India-UAE CEPA (*)
13	India-Australia Economic Cooperation and Trade Agreement (ECTA) (*)

Significance of FTAs

In this section, the significance of FTAs is discussed.

FTAs encourage businesses in member countries to focus on producing and selling the goods that best use their resources while other businesses import goods that are scarce or unavailable domestically.

FTAs increase the production and consumption of internationally traded goods as selected goods are produced by every country at lower costs.

FTAs facilitate the mix of local production and foreign trade which in turn helps economies to boost growth.

FTAs help diversify supply chains by making it easier and cheaper for more businesses to do business across borders.

Reducing the trade barriers will help small and medium-sized enterprises in the export of their goods and services.

Also gives them access to new and emerging technologies.

From the consumer's point of view, FTAs would help the consumers of both countries see improvements in the variety and affordability of products.

FTAs play an important role in strengthening the bond between the countries.

FTAs encourage Foreign Direct Investments (FDI) which helps in capital flow and employment creation.

FTAs help in eliminating monopolies.

Concerns about FTA

The overall success of trade agreements depends on the extent of new trade created based on comparative advantage, which will boost both trade and economic growth.

However, if the FTA causes large diversions of the trade from more competitive nations to the FTA members, then the overall impact of the FTA will be negative.

Threat to Intellectual property rights, as the products of domestic producers, can be easily replicated by big corporations.

Loss of revenue which was levied in the form of import duties and tariffs.

The exploitation of domestic resources and labourers due to the expansion of foreign corporations.

It increases the dependence of trade in goods and services on other countries.

The free movement of foreign goods affects the domestic goods, leading to losses for the indigenous industries.

South Asia Free Trade Agreement (SAFTA)

South Asian Association for Regional Cooperation or SAARC, as it is known, is a region comprising of all the South-Asian nations or the subcontinent i.e. India, Pakistan, Sri Lanka, Bangladesh, Nepal, Bhutan and the other two countries namely Afghanistan and Maldives.

It was conceived to improve the inter-relationships between the nations and improving people to people contact as all the people are united culturally but divided by the borders.

In this context, the concept of South-Asia Free Trade Agreement or SAFTA was conceived for the first time in 1993 as a Preferential Trade Agreement (an agreement amongst the nations to trade selected goods without tariffs or with very low tariffs) and later, it was upgraded to a Free Trade Agreement in 2004 and came into force in 2006.

This was basically done to improve trade and economic relations amongst the member nations of SAARC.

With the classification of nations as Least Developing Countries and Non-Least Developing Countries, there was a creation of an equal platform for all the players in the region so that the Free Trade Agreement would not lead to issues for the domestic markets.

However, despite more than three decades after the enactment of the FTA, the trade growth amongst the member nations is meagre.

The Indo-Sri Lanka Free Trade Agreement (ISFTA),

which was signed on 28th December 1998 and entered into force with effect from 1st March 2000, provides duty free concessions to a wide range of products traded between the two countries.

Objectives :

Sri Lanka's final tariff liberalization commitment under ISFTA came into effect since November 2008 and with this completion of the commitment, the ISFTA which came into effect from March 2000 has been fully implemented.

However, Sri Lanka has already got a fully duty free access to the vast Indian market under the ISFTA since the end of March 2003.

Thus, the entrepreneurs based in Sri Lanka can now export more than 4000 product lines to the Indian market on duty free basis.

India & WTO Agreements :

Free Trade Agreement

A free trade agreement is an agreement in which two or more countries agree to provide preferential trade terms, tariff concession etc. to the partner country.

India has negotiated FTA with many countries e.g. Sri Lanka and various trading blocs as well e.g. ASEAN

Preferential Trade Agreement

In this type of agreement, two or more partners give preferential right of entry to certain products. This is done by reducing duties on an agreed number of tariff lines.

India signed a PTA with Afghanistan.

Comprehensive Economic Partnership Agreement

CECA/CEPA also looks into the regulatory aspect of trade and encompasses an agreement covering the regulatory issues. India has signed CEPAs with South Korea and Japan.

Comprehensive Economic Cooperation Agreement (CECA)

CECA generally covers negotiation on trade tariff and TQR rates only. It is not as comprehensive as CEPA.

India has signed CECA with Malaysia.

Global System of Trade Preferences (GSTP)

Under agreement establishing GSTP, tariff concessions are exchanged among developing countries, who have signed agreement.

Asia Pacific Trade Agreement: (APTA)

APTA is a preferential trading arrangement designed to liberalise and expand trade in goods progressively in Economic and Social Commission for Asia and Pacific (ESCAP) region through liberalization of tariff and nontariff barriers.