

# Classification of HSN/SAC

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## **Introduction**

- **Leviability of Tax**
- **Goods versus Services**
- **Exemptions**
- **Rate of Tax**
- **Standardization and avoiding differentiation**

## **Classification under Goods and Services Tax HSN/SAC**

- Goods .....HSN
- Service ..... SAC
- GST has 8 different types of GST Rates namely 0%, 0.25%, 1%, 3%, 5%, 12%, 18% and 28%.

# Some reasons for such multiple rate structure are:

- **Principle of Equivalence and size of revenue collection**
- **Political Factors**

## **Applicable Laws Useful For Classification under GST**

- - The Central Goods and Services Tax Act, 2017
- — The State Goods and Services Tax Act, 2017
- — The Integrated Goods and Services Tax Act, 2017
- — The Union Territory Goods and Services Tax Act, 2017
- — The Goods and Services Tax (Compensation to States) Act, 2017

## **Various Steps in Classification of Goods or Services**

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

## Identification of Supply of Goods or Services

- 2 (52) “goods” means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;
- 2 (102) “services” means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;

## **Schedule-II - Classification of activities as Supply of Goods or Supply of Services**

- **Various activities which have been treated as Supply of Goods under Schedule-II are as under:**
- 1. Any transfer of title in Goods
- 2. Any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed
- 3. Goods forming part of the assets of a business transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration.
- 4. When any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless:
  - (a) the business is transferred as a going concern to another person; or
  - (b) the business is carried on by a personal representative who is deemed to be taxable
- 5. Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.



Various activities which have been treated as Supply of Services under Schedule-II are as under:

- 1. Any transfer of right in goods or of undivided share in goods without the transfer of title thereof
- 2. Any lease, tenancy, easement, licence to occupy land
- 3. Any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly
- 4. Any treatment or process which is applied to another person's goods .
- 5. Transfer of business assets by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, the usage or making available of such goods
- 6. Renting of immovable property
- 7. Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier

## Various activities which have been treated as Supply of Services under Schedule-II are as under:

- 8. Temporary transfer or permitting the use or enjoyment of any intellectual property right
- 9. Development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;
- 10. Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act.
- 11. Transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.
- 12. Composite supply of works contract as defined in clause (119) of section 2
- 13. Composite supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.

## Identification of Composite Supplies or Mixed Supplies

- --- Supply of two or more goods together (Machine with Packing)
- — Supply of two or more services together (Storage and Transportation)
- — Supply of goods with supply of services (Wall Painting with Paint)
- — Supply of services with supply of goods (Machine with Installation)
- — Supply of goods with supply of neither goods nor services (Exchange of Currency with Sale of Currency)
- — Supply which constitutes taxable and exempted supplies together (Sale of Bakery item with Vegetables)
- — Supply which constitutes taxable and non-GST supplies together (Sale of Lubricant with Petrol)
- — Supply which is taxable and transactions specified in Schedule-III (Sale of Furniture with sale of Building)

## **Classification of Goods as per Notification**

- (i) 2.5% (Schedule I);
- (ii) 6% (Schedule II);
- (iii) 9% (Schedule III);
- (iv) 14% (Schedule IV);
- (v) 1.5% (Schedule V); and
- (vi) 0.125% (Schedule VI)

## **Harmonized System of Nomenclature (“HSN”)**

With increase in international trade, the World Customs Organization (“WCO”) developed a Harmonized System of Nomenclature (“HSN”), in order to facilitate trade flow and analysis of trade statistics. The following are the features of the HSN:

- (a) Adopted by 137 countries to ensure uniformity in classification of products;
- (b) Contains about 5,000 commodity groups – each identified by a 6-digit code (it is pertinent to note that both the Tariff in India follow an 8 digit code system for further clarity in trade volumes and a more specific classification of indigenous products);
- (c) Amended over regular intervals of 4/6 years, taking into consideration the technological advancements in any field – last amendment approved by the WCO in 2009, and brought into force with effect from 1-1-2012;
- (d) For ensuring uniformity, WCO has published the Explanatory Notes to various headings/ sub- headings;
- (e) The Customs Tariff in India was aligned to the HSN w.e.f. 28.02.1986 (whereas the Excise tariff was aligned w.e.f. 1-3-1986).

## **Customs Tariff Act, 1975**

Prior to the advent of GST, in order to determine the Customs duty leviable on a particular commodity, one had to refer to the Customs Tariff Act, 1975 (“CTA”) for the appropriate classification of the goods. The following are the broad features of the CTA:

- a) Section
  - (b) Chapters, and sub-chapters
  - (c) Headings and Sub-Headings
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- 2008                      11                      00
  - Heading Sub – Heading Tariff Item

## **General Rules of Interpretation**

***Rule 1: Classification to be determined per the “Headings” .***

***Rule 2(a): Classification of incomplete or un-assembled goods  
Goods in SKD or CKD condition .***

***Rule 2(b): Classification of Mixture or Combinations.***

***Rule 3(a): Prefer the Specific entry over the general entry .***

***Rule 3(b): Essential character test for Mixtures or Composite Goods .***

***Rule 4: Akin goods .***

***Rule 5: Classification of packing containers and packing materials.***

***Rule 6: Goods are comparable at the same level only .***

## **Classification of Services as per Notification**

- The Central Government, on the recommendations of the GST Council, has issued Notifications Number 11/2017-CT (Rate) dated 28.06.2017 prescribing the Rate of Tax (Schedules) for specified services under CGST/IGST (“Rate Notification”).
- The Central Government by way of further Notifications amends from time to time the Rate Notification to specify any change of rate of tax on any service, from time to time.
- It is pertinent to note that the Explanation to the Rate Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 states thus :



- Thank You