

Classification of HSN/SAC

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Introduction

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

Classification Based On.....

- 0% GST:** Basic food items, educational services, healthcare services.
- 5% GST:** Essential commodities, transportation services, small restaurant bills.
- 12% GST:** Processed food items, business class air travel, hotel stays under ₹1000 per night.
- 18% GST:** Consumer electronics, telecommunications services, restaurant dining.
- 28% GST:** Luxury items, high-end automobiles, five-star hotel accommodations.

Classification under Goods and Services Tax HSN/SAC

- GoodsHSN
- 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 .

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

- **Explanation:** This rule states that the classification of goods should be determined based on the headings of the Harmonized System of Nomenclature (HSN). The headings provide a primary guide for classification.
- **Example:** If you are classifying a "laptop", you would refer to the heading for computers and peripheral devices to find the appropriate sub-heading.

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

- **Explanation:** Goods that are incomplete or unassembled but have the essential character of the complete or finished goods should be classified as the complete goods.
- **Example:** If you import a car in knocked-down condition (CKD), where it is unassembled, it should still be classified under the heading for complete cars.

Few More Examples

- **1. Automobiles**
- **Cars:** Unassembled car parts such as chassis, engines, body panels, and interiors shipped separately and assembled at the destination.
- **Motorcycles:** Individual components like frames, engines, wheels, and handlebars shipped in SKD or CKD form for local assembly.
- **2. Electronics**
- **Televisions:** Components such as screens, circuit boards, casings, and power supplies shipped unassembled.
- **Computers:** Separate parts like motherboards, processors, RAM, hard drives, and casings shipped in SKD or CKD condition for local assembly.

- **3. Furniture**

- **Office Desks:** Parts including tabletops, legs, drawers, and hardware shipped unassembled.
- **Wardrobes:** Panels, doors, hinges, and shelving units sent in CKD form for assembly at the customer's location.

- **4. Home Appliances**

- **Air Conditioners:** Different components like compressors, condensers, evaporators, and casings shipped separately.
- **Washing Machines:** Unassembled parts such as drums, motors, control panels, and outer casings.

- **5. Bicycles**

- **Bicycle Kits:** Frames, wheels, handlebars, pedals, and seats shipped in SKD or CKD condition for assembly.
- These goods are shipped in unassembled or partially assembled form to save on shipping costs, comply with local assembly requirements, or take advantage of lower tariffs and duties on parts rather than fully assembled goods. Under GST, such goods are classified based on their essential character when fully assembled

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

- **Explanation:** This rule states that mixtures or combinations of materials or substances should be classified according to the material or substance that gives them their essential character.
- **Example:** A mixture of sugar and flavouring agents for making candy would be classified based on sugar, as it gives the mixture its essential character.

Few More Examples

- **1. Food Products**
- **Breakfast Cereal Mixes:** Mixtures of oats, nuts, dried fruits, and seeds. These are classified based on their predominant ingredient.
- **Spice Blends:** Combinations of various ground spices like garam masala, curry powder, or Italian seasoning. The classification depends on the main spice or the purpose of the blend.
- **2. Pharmaceutical Products**
- **Multivitamin Supplements:** Capsules or tablets containing a mixture of vitamins, minerals, and sometimes herbs. These are classified under a specific heading for multivitamins.
- **Combined Medications:** Medicines that combine two or more active pharmaceutical ingredients, such as a combination of paracetamol and ibuprofen. Classification is based on the combined therapeutic purpose.

- **3. Chemical Products**

- **Cleaning Solutions:** Mixtures of various chemicals like detergents, surfactants, and solvents used for cleaning purposes. These are classified based on their primary function as cleaning agents.
- **Industrial Lubricants:** Blends of oils, additives, and other substances used for machinery lubrication. Classification depends on the primary use and composition of the mixture.

- **4. Cosmetics and Personal Care**

- **Shampoo and Conditioner:** Products that combine shampoo and conditioner in one formula. These are classified based on their predominant use, usually as a hair care product.
- **Skincare Creams:** Creams containing a mix of moisturizing agents, sunscreens, and other active ingredients. Classification is determined by the main function, such as moisturizing or sun protection.

- **5. Construction Materials**

- **Ready-Mix Concrete:** A combination of cement, aggregates, water, and sometimes additives. This mixture is classified as construction material.
- **Composite Panels:** Panels made from a combination of wood, plastic, and other materials used in construction. The classification depends on the predominant material or intended use.

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

- **Explanation:** When goods can be classified under two or more headings, the more specific heading should be preferred over the more general one.
- **Example:** A camera specifically designed for underwater photography would be classified under a specific heading for underwater cameras rather than a general heading for cameras.

Few More Examples

- **1. Medicines vs. General Chemicals**
- **Specific Entry:** A particular medicine, such as an antibiotic like Amoxicillin, is specifically listed under pharmaceuticals.
- **General Entry:** General chemicals might be listed under a broader category of chemical products.
- **Preference:** The specific entry for the antibiotic would be preferred over the general entry for chemicals.
- **2. Laptops vs. Electronic Devices**
- **Specific Entry:** Laptops and notebooks are specifically classified under a heading for computers.
- **General Entry:** Electronic devices could fall under a broader category of electronics.
- **Preference:** The specific entry for laptops is preferred over the general category for electronic devices.

- **3. Luxury Cars vs. Motor Vehicles**

- **Specific Entry:** Luxury cars are specifically categorized under a heading for luxury vehicles.
- **General Entry:** Motor vehicles could be listed under a broader category of automobiles.
- **Preference:** The specific entry for luxury cars is preferred over the general entry for motor vehicles.

- **4. Printed Books vs. Paper Products**

- **Specific Entry:** Printed books are specifically classified under a heading for books and printed material.
- **General Entry:** Paper products might be listed under a broader category of paper and paperboard products.
- **Preference:** The specific entry for printed books is preferred over the general category for paper products.

- **5. Smartphones vs. Telecommunication Equipment**
- **Specific Entry:** Smartphones are specifically listed under a heading for mobile phones.
- **General Entry:** Telecommunication equipment might include a wide range of devices.
- **Preference:** The specific entry for smartphones is preferred over the general entry for telecommunication equipment.

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

- **Explanation:** For mixtures or composite goods, the classification should be based on the component that imparts the essential character to the goods.
- **Example:** A toy set comprising a toy car, a toy plane, and a toy boat would be classified based on the toy that provides the essential character, such as the toy car if it is the primary component.

Few More Examples

- **1. Chocolate-Covered Nuts**
- **Essential Character:** The primary component that defines the product is the chocolate.
- **Classification:** The product is classified under chocolate or cocoa products rather than nuts.
- **2. Wooden Furniture with Metal Parts**
- **Essential Character:** The primary component that defines the furniture is the wood.
- **Classification:** The furniture is classified under wooden furniture even though it contains metal parts.

- **3. Plastic Toys with Electronic Components**

- **Essential Character:** The primary component that defines the toy is the plastic structure.
- **Classification:** The toy is classified under plastic toys rather than electronic goods.

- **4. Leather Jackets with Fabric Lining**

- **Essential Character:** The primary component that defines the jacket is the leather.
- **Classification:** The jacket is classified under leather goods rather than textile products.

- **5. Battery-Powered Electric Toothbrush**

- **Essential Character:** The primary component that defines the product is the toothbrush functionality.
- **Classification:** The electric toothbrush is classified under oral hygiene products rather than electrical appliances.

Rule 4: Akin goods .

- **Explanation:** If goods cannot be classified based on the above rules, they should be classified under the heading appropriate to the goods to which they are most akin.
- **Example:** If a new electronic gadget cannot be classified specifically, it would be classified under a heading for a similar type of electronic gadget.

Few More Examples.

- **1. Hybrid Vehicles**
- **Akin Goods:** If a specific heading for hybrid vehicles does not exist, they can be classified under the heading for motor vehicles, which are similar in nature and use.
- **Classification:** Hybrid vehicles would be classified similarly to conventional motor vehicles.
- **2. Smartwatches**
- **Akin Goods:** If there's no specific heading for smartwatches, they can be classified under the heading for wristwatches, as they are similar in use and appearance.
- **Classification:** Smartwatches would be classified under wristwatches.

- **3. E-Books**

- **Akin Goods:** If a specific heading for e-books is not available, they can be classified under printed books, as they serve a similar purpose of reading.
- **Classification:** E-books would be classified similarly to printed books.

- **4. Energy Bars**

- **Akin Goods:** If energy bars do not have a specific heading, they can be classified under confectionery or snack foods, as they are consumed in a similar manner.
- **Classification:** Energy bars would be classified under confectionery or snack foods.

- **5. Electric Scooters**

- **Akin Goods:** If there is no specific heading for electric scooters, they can be classified under the heading for motorcycles or two-wheelers, as they serve a similar transportation function.
- **Classification:** Electric scooters would be classified under motorcycles or two-wheelers.

Rule 5: Classification of packing containers and packing materials.

- **Explanation:** Packing containers and materials, if they are specially designed for a particular good and are suitable for long-term use, should be classified with the goods they contain.
- **Example:** A specially designed case for musical instruments that is used to store and transport the instrument should be classified under the heading for musical instruments.

Few More Examples.

- **1. Plastic Bottles for Beverages**
- **Classification:** Plastic bottles used for packaging beverages are classified under the heading for plastic containers, regardless of the beverage they contain.
- **Example:** Empty plastic bottles for soda or water.
- **2. Glass Jars for Food Products**
- **Classification:** Glass jars used for packaging food items are classified under the heading for glass containers.
- **Example:** Empty glass jars for jams, honey, or pickles.

- **3. Metal Cans for Aerosols**

- **Classification:** Metal cans used for packaging aerosol products are classified under the heading for metal containers.
- **Example:** Empty metal cans for deodorants, sprays, or paint.

- **4. Cardboard Boxes for Shipping**

- **Classification:** Cardboard boxes used for packaging and shipping goods are classified under the heading for paper and paperboard containers.
- **Example:** Empty cardboard boxes used for shipping electronics, books, or clothing.

- **5. Plastic Wrap for Pallets**

- **Classification:** Plastic wrap used for securing items on pallets is classified under the heading for plastic packaging materials.
- **Example:** Stretch film or shrink wrap used to secure and protect goods during transportation.

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

- **Explanation:** For classification purposes, goods should only be compared at the same level of detail. Comparisons should not be made between goods described at different levels of detail.
- **Example:** When classifying different types of clothing, compare items within the same category (e.g., compare different types of shirts with each other rather than shirts with general apparel).

Few More Examples.

- **1. Types of Vehicles**

- **Example:** When classifying different types of vehicles, comparisons should be made between similar categories, such as comparing a sedan to another type of car, not to a motorcycle.
- **Classification:** Sedans, SUVs, and hatchbacks should be compared within the category of passenger cars.

- **2. Electronic Devices**

- **Example:** When classifying electronic devices, comparisons should be made between similar types of devices, such as comparing a smartphone to another type of mobile phone, not to a laptop.
- **Classification:** Smartphones, feature phones, and tablets should be compared within the category of portable communication devices.

- **3. Food Products**

- **Example:** When classifying food products, comparisons should be made within the same category, such as comparing different types of bread, not bread to dairy products.
- **Classification:** White bread, whole grain bread, and multigrain bread should be compared within the category of bread products.

- **4. Clothing Items**

- **Example:** When classifying clothing items, comparisons should be made within similar types, such as comparing different types of shirts, not shirts to trousers.
- **Classification:** T-shirts, dress shirts, and polo shirts should be compared within the category of upper body garments.

- **5. Home Appliances**

- **Example:** When classifying home appliances, comparisons should be made between similar appliances, such as comparing different types of washing machines, not washing machines to refrigerators.
- **Classification:** Front-loading washing machines, top-loading washing machines, and washer-dryers should be compared within the category of washing machines.

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