

# **GST & Indirect Taxes Committee of ICAI**

**NATIONAL CONFERENCE ON GST**  
16th December 2022

## **Classification Concepts in GST**

CA. Viral M Khandhar

**GST slabs trigger classification woes**

**Papads don't attract GST, but fryums face 18% rate**

Policy

Car seat cover an accessory, to attract GST at 28%, rules Andhra Pradesh AAR

Opinion

Tax fizz: Is fruit juice an aerated drink?

Prasanna | Updated on January 27, 2021

**Ready-to-eat frozen parotas to attract 18% GST; 5% for plain parotas served in restaurants**

**Sanitizer : Classification HSN Code 3004 or 3808?**

**Lassi exempt from GST, but not flavoured milk**

# AGENDA

- Need for Classification in GST
- Introduction to HSN Coding System and First Schedule to Customs Tariff Act, 1975
- Tools for Classification for Goods
- Classification of Services

**BEVERAGES, SPIRITS AND VINEGAR***Tariff Item**Description of goods**(1)**(2)*

2201

Waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured; ice and snow

Nil IGST/Nil CGST/Nil SGST or UTGST : 2201 :

Water other than aerated, mineral, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container

Nil IGST/Nil CGST/Nil SGST or UTGST : 2201 :

Non-alcoholic Toddy, Neera including date and palm neera

5% IGST/2.5% CGST/2.5% SGST or UTGST :

2201 90 10 : Ice and snow

12% IGST/6% CGST/6% SGST or UTGST : 2201 :

Drinking water packed in 20 litres bottles

18% IGST/9% CGST/9% SGST or UTGST : 2201 :

Waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured [other than Drinking water packed in 20 litres bottles]

9503*	Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages; dolls; other toys; reduced-size ("scale") models and similar recreational models, working or not; puzzles of all kinds		5% IGST/2.5% CGST/2.5% SGST or UTGST : 9503 : Toy balloons made of natural rubber latex  12% IGST/6% CGST/6% SGST or UTGST : 9503 : Toys like tricycles, scooters, pedal cars etc. (including parts and accessories thereof) [other than electronic toys]  18% IGST/9% CGST/9% SGST or UTGST : 9503 : Electronic Toys like tricycles, scooters, pedal cars etc. (including parts and accessories thereof)		
9503 00	- <i>Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages; dolls; other toys; reduced-size ("scale") models and similar recreational models, working or not; puzzles of all kinds :</i>				
9503 00 10	--- Electronic	u	9%	9%	18%
9503 00 20	--- Non electronic	u	6%	6%	12%
	--- <i>Parts :</i>				
9503 00 91	---- Of electronic toys	u	9%	9%	18%
9503 00 99	---- Other	u			

10	Heading 9966 (Rental services of transport vehicles <sup>40</sup> [with operators])	<sup>41</sup> <sub>(i)</sub> Renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient.	2.5	<b>Provided</b> that credit of input tax charged on goods and services used in supplying the service, other than the input tax credit of input service in the same line of business (i.e. service procured from another service provider of transporting passengers in a motor vehicle or renting of a motor vehicle) has not been taken [Please refer to <i>Explanation No. (iv)</i> ]  or
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17	Heading 9973 (Leasing or rental services <sup>41</sup> [***] without operator)	<sub>(i)</sub> Temporary or permanent transfer or permitting the use or enjoyment of Intellectual Property (IP) right in respect of goods other than Information Technology software.	6
		<sub>(ii)</sub> Temporary or permanent transfer or permitting the use or enjoyment of Intellectual Property (IP) right in respect of Information Technology software. [Please refer to <i>Explanation No. (v)</i> ]	9
		<sub>(iii)</sub> 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.	Same rate of central tax as on supply of like goods involving transfer of title in goods
		<sub>(iv)</sub> Any transfer of right in goods or of undivided share in goods without the transfer of title thereof.	Same rate of central tax as on supply of like goods involving transfer of title in goods
		<sub>(v)</sub> <sup>42</sup> [***]	
		<sup>43</sup> <sub>(vi)</sub> Leasing of motor vehicles purchased and leased prior to 1st July 2017;	6.5 per cent of the rate of central tax as applicable on supply of like goods involving transfer of title in goods. <b>Note</b> : Nothing contained in this entry shall apply on or after 1st July, 2020.
		<sub>(vii)</sub> <sup>44</sup> [***]	
		<sup>45</sup> <sub>(viii)</sub> Leasing or renting of goods	Same rate of central tax as applicable on supply of like goods involving transfer of title in goods
		<sup>46</sup> <sub>(viii)</sub> Leasing or rental services, without operator, other than (i), (ii), (iii), (iv), (vi) and (viii) above.]	9

**BAHUT CONFUSION HAI RE**

**BABA**



**kya....kya karu iska**

NOTIFICATION NO. 1/2017-CENTRAL TAX (RATE)

SECTION 9 OF THE CGST ACT, 2017 - LEVY & COLLECTION OF TAX - CGST RATE SCHEDULE FOR GOODS

\*NOTIFICATION NO. 1/2017-CENTRAL TAX (RATE), DATED 28-6-2017

AS AMENDED BY [NOTIFICATION NO.18/2017-CENTRAL TAX \(RATE\), DATED 30-6-2017](#), [CORRIGENDUM GSR 761\(E\), DATED 30-6-2017](#), [CORRIGENDUM GSR 867\(E\), DATED 12-7-2017](#), [CORRIGENDUM GSR 958\(E\), DATED 27-7-2017](#), [NOTIFICATION NOS. 19/2017-CENTRAL TAX \(RATE\), DATED 18-8-2017](#), [27/2017-CENTRAL TAX \(RATE\), DATED 22-9-2017](#), [34/2017-CENTRAL TAX \(RATE\), DATED 13-10-2017](#), [41/2017- CENTRAL TAX \(RATE\), DATED 14-11-2017](#), [6/2018-CENTRAL TAX \(RATE\), DATED 25-1-2018](#), [18/2018-CENTRAL TAX \(RATE\), DATED 26-7-2018](#), [24/2018-CENTRAL TAX \(RATE\), DATED 31-12-2018](#), [8/2019-CENTRAL TAX \(RATE\), DATED 29-3-2019](#), [12/2019-CENTRAL TAX \(RATE\), DATED 31-7-2019](#), [14/2019-CENTRAL TAX \(RATE\), DATED 30-9-2019](#), [27/2019-CENTRAL TAX \(RATE\), DATED 30-12-2019](#), [1/2020-CENTRAL TAX \(RATE\), DATED 21-2-2020](#), [3/2020-CENTRAL TAX \(RATE\), DATED 25-3-2020](#), [1/2021-CENTRAL TAX \(RATE\), DATED 2-6-2021](#), [8/2021-CENTRAL TAX \(RATE\), DATED 30-9-2021](#), [13/2021-CENTRAL TAX \(RATE\), DATED 27-10-2021](#), [18/2021-CENTRAL TAX \(RATE\), DATED 28-12-2021](#), [21/2021-CENTRAL TAX \(RATE\), DATED 31-12-2021](#), [1/2022-CENTRAL TAX \(RATE\), DATED 31-3-2022](#) AND [6/2022- CENTRAL TAX \(RATE\), DATED 13-7-2022](#)

In exercise of the powers conferred by sub-section (1) of section 9<sup>1</sup>[and sub-section (5) of section 15] of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby notifies the rate of the central tax of—

- (i) 2.5 per cent in respect of goods specified in Schedule I,
- (ii) 6 per cent in respect of goods specified in Schedule II,
- (iii) 9 per cent in respect of goods specified in Schedule III,
- (iv) 14 per cent in respect of goods specified in Schedule IV,
- (v) 1.5 per cent in respect of goods specified in Schedule V, <sup>2</sup>[\*\*\*]
- (vi) 0.125 per cent in respect of goods specified in Schedule VI <sup>3</sup>[ and]
- <sup>3</sup>(vii) 0.75 per cent in respect of goods specified in Schedule VII

appended to this notification (hereinafter referred to as the said Schedules), that shall be levied on intra-State supplies of goods, the description of which is specified in the corresponding entry in column (3) of the said Schedules, falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Schedules.

# NOTIFICATION NO. 01/2017 – CENTRAL TAX (RATE)

*Explanation.* – For the purposes of this notification,-

(i) The phrase “unit container” means a package, whether large or small (for example, tin, can, box, jar, bottle, bag, or carton, drum, barrel, or canister) designed to hold a pre-determined quantity or number, which is indicated on such package.

(ii) The phrase “registered brand name” means brand name or trade name, that is to say, a name or a mark, such as symbol, monogram, label, signature or invented word or writing which is used in relation to such specified goods for the purpose of indicating, or so as to indicate a connection in the course of trade between such specified goods and some person using such name or mark with or without any indication of the identity of that person, and which is registered under the Trade Marks Act, 1999.

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

(iv) 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.

2. This notification shall come into force with effect from the 1<sup>st</sup> day of July, 2017.

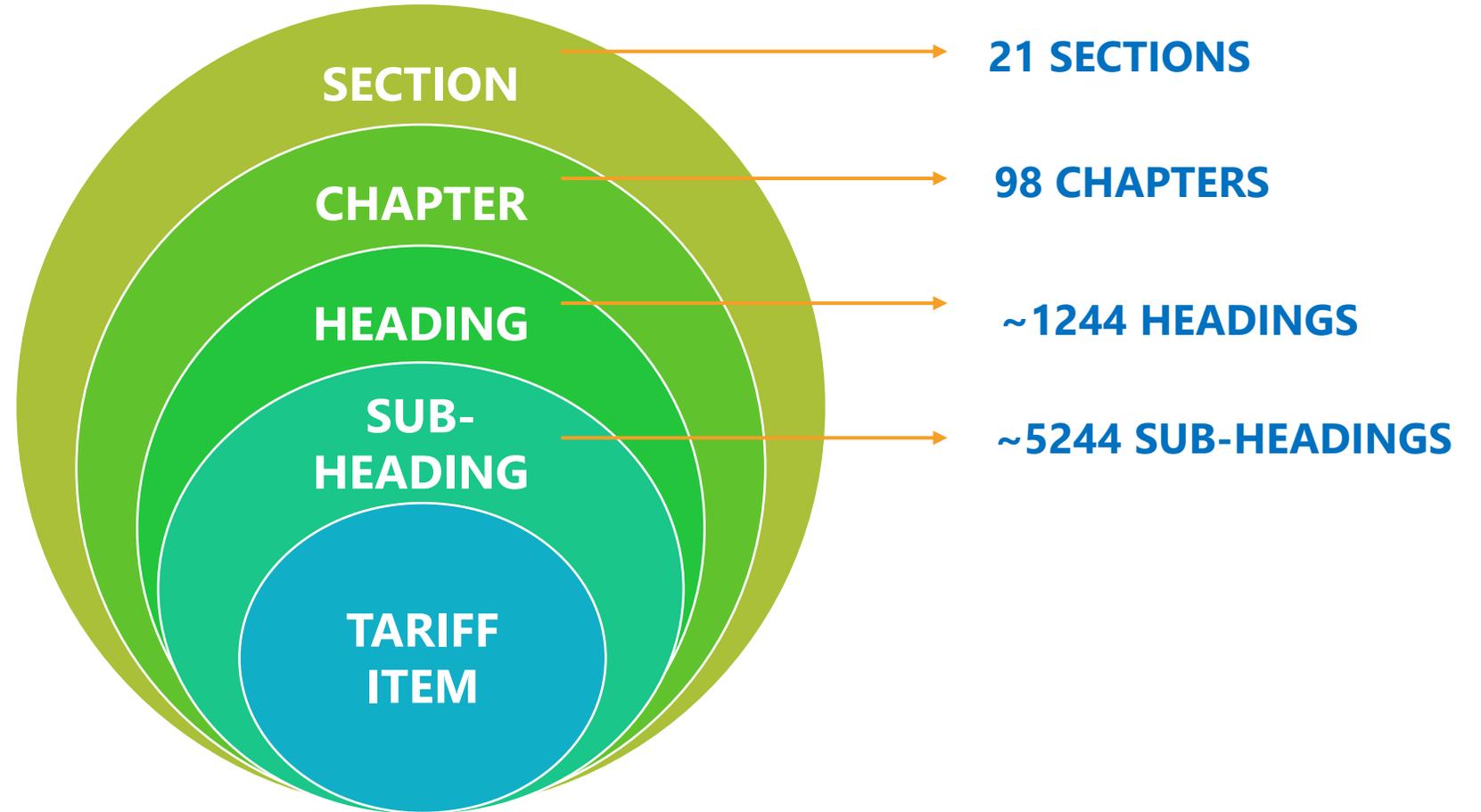
[F.No.354/117/2017-TRU]



**babu bhaiya hum bach gaye**

**INTRODUCTION TO HSN  
AND  
FIRST SCHEDULE TO THE  
CUSTOMS TARIFF ACT, 1975**

# FIRST SCHEDULE TO CUSTOMS TARIFF ACT, 1975



# SECTIONS

SECTION I. LIVE ANIMALS, ANIMAL PRODUCTS

SECTION II. VEGETABLE PRODUCTS

SECTION VII. PLASTICS AND ARTICLES THEREOF, RUBBER AND ARTICLES THEREOF

SECTION XI. TEXTILE & TEXTILE ARTICLES

SECTION XVII. VEHICLES; AIRCRAFT; VESSELS & ASSOCIATED TRANSPORT EQUIPMENT

SECTION XIX. ARMS AND AMMUNITION; PARTS AND ACCESSORIES THEREOF

SECTION XXI. WORKS OF ART, COLLECTORS' PIECES AND ANTIQUES

## **SECTION II**

**Chapter 6 - Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage**

**Chapter 7 - Edible vegetables and certain roots and tubers**

**Chapter 8- Edible fruit and nuts; peel of citrus fruits or melons**

**Chapter 9 - Coffee, tea, mate and spices**

**Chapter 10 - Cereals**

## Chapter 10 – Cereals

**1001** – WHEAT AND MESLIN

**1002** - RYE

**1003** - BARLEY

**1004** – OATS

**1005** – MAIZE (CORN)

**1006** – RICE

# 1006 – RICE

**1006 10 – Rice in the husk ( Paddy or rough)**

**1006 20 - Husked (Brown) Rice**

**1006 30 - Semi-milled or wholly-milled rice, whether or not polished or glazed :**

1006 30 10 - - - Rice, parboiled

1006 30 20 - - - Basmati Rice

1006 30 90 - - - Other

**ROSES**  
**(HSN 06 03 11 00)**

**06**

The First two digits indicates the Chapter Number

**03**

The next two digits indicates the Heading under the Chapter

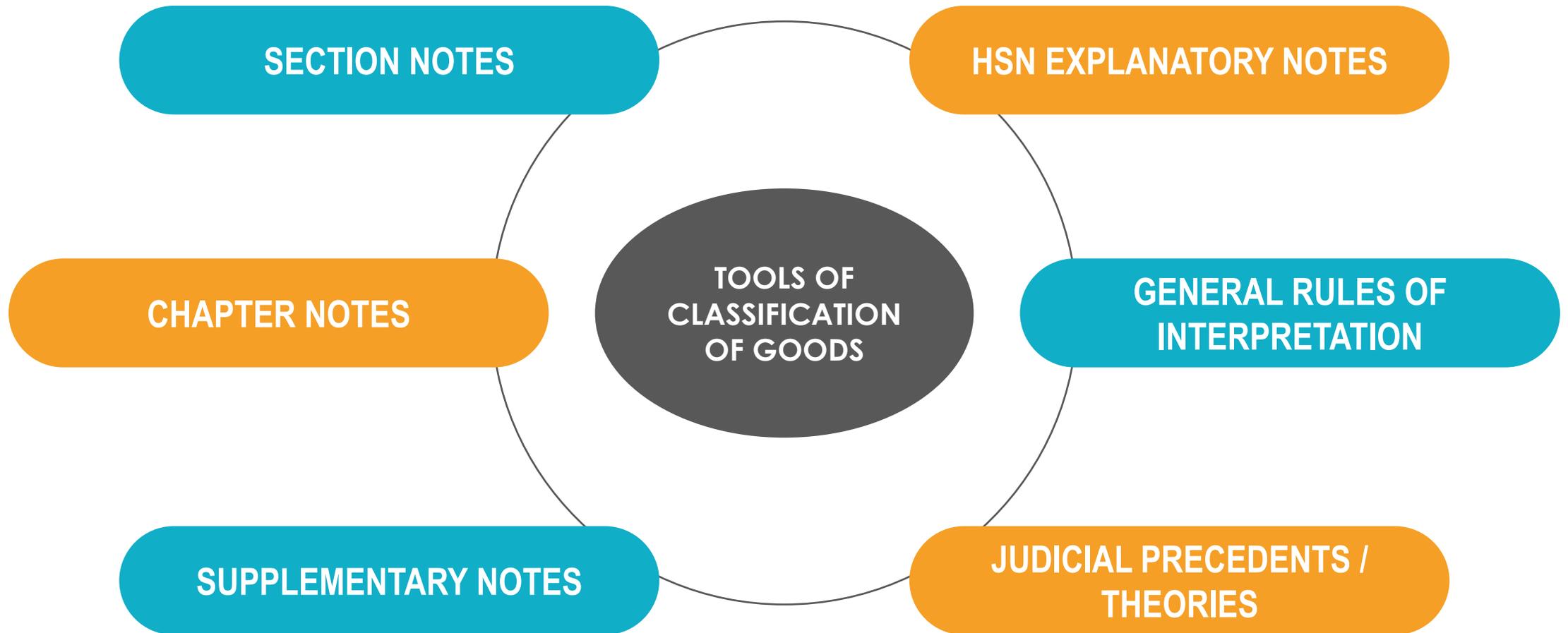
**11**

The next two digits indicates the sub-heading under the Heading – 6 digit code

**00**

The last two digits classify the product under the sub-heading – Tariff item

# TOOLS OF CLASSIFICATION OF GOODS



# SECTION NOTES & CHAPTER NOTES

- Certain Sections and Chapters are preceded by Notes which form an integral part of the Harmonized System and have the same legal force.
- Defines the precise scope and limits of each sub-heading or headings.
- Made the drafting of the heading, sub-heading simpler and also defined terms that are essential to avoid confusion
- Referred to as the "Legal Notes"

# HSN EXPLANATORY NOTES



- For ensuring uniformity, the World Customs Organization has published various Explanatory Notes to various heading/sub-headings.
- They do not form part of the legal provisions of the HS but are the official interpretation of the WCO.
- Not exhaustive, unchangeable commentary on the overall scope of the headings and sub-headings.
- Gives a better understanding of the tariff headings
- 5 volumes and amending supplements

# GENERAL RULES OF INTERPRETATION

Rule 1	Classification is determined first by wording or text of headings or any relevant legal notes
Rule 2 (a)	Heading can include incomplete, unfinished, unassembled or disassembled goods.
Rule 2 (b)	Heading can include mixtures or combinations of goods
<b>Rule 3 - sequential method - when an article can be classified under two or more headings</b>	
Rule 3 (a)	most specific description
Rule 3 (b)	essential character
Rule 3 (c)	last in numerical order
Rule 4	most akin
Rule 5 (a)	special containers
Rule 5 (b)	packing materials and containers
Rule 6	classification of goods at the subheading level

# TRADE PARLANCE THEORY



- A word in statute should be construed in its popular sense and not in the strict or technical sense, 'Popular sense' means that which people conversant with the subject matter with which the statute is dealing would attribute to it.
- *"Where a word has a scientific or technical meaning and also an ordinary meaning according to common parlance, it is in the latter sense that in a taxing statute the word must be held to have been used, unless contrary intention is clearly expressed by the Legislature."*
- The test ignores the technical meaning or scientific meaning if open market exists for the commodities commonly traded.

# OTHER AIDS OF CLASSIFICATION

- End use Classification
- Expert Opinion

# Classification of Services

## NOTIFICATION NO. 11/2017-CENTRAL TAX (RATE)

### SECTION 9, READ WITH SECTIONS 11, 15 & 16, OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - LEVY & COLLECTION OF TAX - CGST RATE SCHEDULE FOR SERVICES

NOTIFICATION NO. 11/2017-CENTRAL TAX (RATE), DATED 28-6-2017, AS AMENDED BY, [NOTIFICATION NO. 20/2017-CENTRAL TAX \(RATE\), DATED 22-8-2017](#), [NOTIFICATION NO. 24/2017-CENTRAL TAX \(RATE\), DATED 21-9-2017](#), [NOTIFICATION NO. 31/2017-CENTRAL TAX \(RATE\), DATED 13-10-2017](#), [NOTIFICATION NO. 46/2017-CENTRAL TAX \(RATE\), DATED 14-11-2017](#), [NOTIFICATION NO. 1/2018-CENTRAL TAX \(RATE\), DATED 25-1-2018](#), [NOTIFICATION NO. 13/2018-CENTRAL TAX \(RATE\), DATED 26-7-2018](#), [NOTIFICATION NO. 17/2018-CENTRAL TAX \(RATE\), DATED 26-7-2018](#), [NOTIFICATION NO. 27/2018-CENTRAL TAX \(RATE\), DATED 31-12-2018](#), [NOTIFICATION NO. 30/2018-CENTRAL TAX \(RATE\), DATED 31-12-2018](#), [NOTIFICATION NO. 3/2019-CENTRAL TAX \(RATE\), DATED 29-3-2019](#), [CORRIGENDUM GSR 327\(E\), DATED 25-4-2019](#), [NOTIFICATION NO. 10/2019-CENTRAL TAX \(RATE\), DATED 10-5-2019](#) AND [NOTIFICATION NO. 20/2019-CENTRAL TAX \(RATE\), DATED 30-9-2019](#), [NOTIFICATION NO. 26/2019 - CENTRAL TAX \(RATE\), DATED 22-11-2019](#)

In exercise of the powers conferred by sub-section (1) <sup>1</sup>[sub-section (3) and sub-section (4)] of section 9, sub-section (1) of section 11, sub-section (5) of section 15 <sup>1</sup>[sub-section (1) of section 16 <sup>2</sup>[and section 148]] of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby notifies that the central tax, on the intra-State supply of services of description as specified in column (3) of the Table below, falling under Chapter, Section or Heading of scheme of classification of services as specified in column (2), shall be levied at the rate as specified in the corresponding entry in column (4), subject to the conditions as specified in the corresponding entry in column (5) of the said Table:—

TABLE

Sl. No.	Chapter, Section or Heading	Description of Service	Rate (per cent)	Condition
(1)	(2)	(3)	(4)	(5)
1	Chapter 99	All Services		
2	Section 5	Construction Services		
3	Heading 9954 (Construction services)	<sup>2</sup> [(i) Construction of affordable residential apartments by a promoter in a Residential Real Estate Project (herein-after referred to as RREP) which commences on or after	0.75	Provided that the central tax at the rate specified in column (4) shall be paid in cash, that is, by debiting the electronic cash ledger only.

## Annexure: Scheme of Classification of Services

S.No.	Chapter, Section, Heading or Group	Service Code (Tariff)	Service Description
(1)	(2)	(3)	(4)
1	<b>Chapter 99</b>		<b>All Services</b>
2	<b>Section 5</b>		<b>Construction Services</b>
3	<b>Heading 9954</b>		<b>Construction services</b>
4	<b>Group 99541</b>		<b>Construction services of buildings</b>
5		995411	Construction services of single dwelling or multi dwelling or multi-storied residential buildings
6		995412	Construction services of other residential buildings such as old age homes, homeless shelters, hostels and the like
7		995413	Construction services of industrial buildings such as buildings used for production activities (used for assembly line activities), workshops, storage buildings and other similar industrial buildings
8		995414	Construction services of commercial buildings such as office buildings, exhibition and marriage halls, malls, hotels, restaurants, airports, rail or road terminals, parking garages, petrol and service stations, theatres and other similar buildings
9		995415	Construction services of other non-residential buildings such as educational institutions, hospitals, clinics including veterinary clinics, religious establishments, courts, prisons, museums and other similar buildings
10		995416	Construction services of other buildings nowhere else classified
11		995419	Services involving repair, alterations, additions, replacements, renovation, maintenance or remodeling of the buildings covered



# Thank You

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