CLASSIFICATION OF IMPORTED AND EXPORT GOODS

LEARNING OUTCOMES

After studying this chapter, you would be able to:

- comprehend the need for classification of goods and identify the general explanatory notes.
- list the rules of interpretation of the First Schedule to the Customs Tariff Act.
- understand the concept of Project imports.
1. **CUSTOMS TARIFF**

- **Need for classification of goods:** One of the important steps in assessing the amount of duty payable is classification of the goods within the ambit of the Schedule to the Customs Tariff Act. The correct classification of goods is necessary to ascertain the rate of custom duty which goods are subject to.

- **The Customs Tariff Act, 1975**

  (a) **Schedules to tariff**

  The Customs Tariff Act, 1975

  - First Schedule
    - enlists the goods liable to import duty
  - Second Schedule
    - enlists the goods liable to export duty

  (b) **Rules of interpretation and explanatory notes**

  The Indian Customs Tariff is based upon the Harmonized System of Nomenclature.

  The Harmonized Commodity Description and Coding System (HSN) of tariff nomenclature generally referred to as "Harmonized System of Nomenclature" is an internationally standardized system of names and numbers for classifying traded products developed and maintained by the World Customs Organization (WCO) (formerly the Customs Coordination Council), an independent intergovernmental organization.

  Along the lines of HSN, the customs tariff has a set of Rules of Interpretation of the First Schedule i.e. Import tariff schedule and General Explanatory notes.

  (i) **Rules of interpretation:** Six

  (ii) **General explanatory notes:** Three

  These rules of interpretation and general explanatory notes are an integral part of the Schedule. The purpose of inclusion of the rules of
interpretation and the general explanatory notes as an integral part of the first schedule is to give clear direction as to how the nomenclature in the schedule is to be interpreted and to give statutory force to the interpretative rules and the general explanatory notes.

(c) First Schedule of the Customs Tariff

The First Schedule comprises of 98 chapters grouped under 21 sections.

(i) **Sections:** A group of Chapters representing a particular class of goods.

(ii) **Chapters:** Each section is divided into various chapters and sub-chapters. Each chapter contains goods of one class.

(iii) **Chapter notes:** They are mentioned at the beginning of each chapter. These notes are part of the statute and hence have the legal authority in determining the classification of goods.

(iv) **Heading:** Each chapter and sub-chapter is further divided into various headings.

(v) **Sub-heading:** Each heading is further divided into various sub-headings.

2. GENERAL EXPLANATORY NOTES

There are three general explanatory notes included in the First Schedule. They are-

(a) **Relevance of one dash [“-”] and two dash [“--”]**

- “-“ denotes that the said article or group of articles shall be taken to be sub-classification of the article or group of article covered by the said heading.

- “--“ denotes that that the said article or group of articles shall be taken to be sub-classification of the immediately preceding article/group of articles which has “-“.

(b) **Meaning of abbreviation “%” in relation to the rate of duty**

The abbreviation “%” in any column of the Schedule in relation to the rate of duty means that the duty shall be computed at the percentage specified on the value of the goods as defined in section 14 of the Customs Act.
(c) **Standard rate of duty applicable if no preferential rate specified**

In any entry, if no preferential rate of duty has been notified, the standard rate of duty shall be applicable.

**Illustration**

*The above general explanatory notes can be understood with the following illustration:*

<table>
<thead>
<tr>
<th>Tariff Item</th>
<th>Description of goods</th>
<th>Units</th>
<th>Rate of duty®</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Standard</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(3)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(5)</td>
</tr>
<tr>
<td>0801</td>
<td>Coconuts, brazil nuts and cashew nuts, fresh or dried, whether or not shelled or peeled</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Coconuts:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>0801 11 00</td>
<td>- - Desiccated</td>
<td>Kg.</td>
<td>70%</td>
</tr>
<tr>
<td>0801 12</td>
<td>- - In the inner shell (endocarp):</td>
<td></td>
<td></td>
</tr>
<tr>
<td>0801 12 10</td>
<td>- - - Fresh</td>
<td>Kg.</td>
<td>70%</td>
</tr>
<tr>
<td>0801 12 20</td>
<td>- - - Dried</td>
<td>Kg.</td>
<td>70%</td>
</tr>
<tr>
<td>0801 12 90</td>
<td>- - - Other</td>
<td>Kg.</td>
<td>70%</td>
</tr>
<tr>
<td>0801 19</td>
<td>- - Other</td>
<td></td>
<td></td>
</tr>
<tr>
<td>0801 19 10</td>
<td>- - - Fresh</td>
<td>Kg.</td>
<td>70%</td>
</tr>
<tr>
<td>0801 19 20</td>
<td>- - - Dried</td>
<td>Kg.</td>
<td>70%</td>
</tr>
<tr>
<td>0801 19 90</td>
<td>- - - Other</td>
<td>Kg.</td>
<td>70%</td>
</tr>
<tr>
<td></td>
<td>- Brazil nuts:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>0801 21 00</td>
<td>- - In shell</td>
<td>Kg.</td>
<td>30%</td>
</tr>
</tbody>
</table>
In the above entry, following columns are there:-

**Column (1):** Tariff Item

**Column (2):** Description of goods

**Column (3):** Units

**Column (4):** Standard rate of duty

**Column (5):** Preferential rate of duty

(a) In the above entry, Coconuts, which is preceded by “-” is classification of the heading Coconuts, Brazil nuts and Cashew nuts, fresh or dried, whether or not Shelled or peeled.

“- -” is sub-classification of coconut which is preceded by “-.”

(b) The second explanatory note states that the abbreviation “%” stands for specifying that the rate of duty is *ad valorem*. It means the duty shall be computed at the rates specified in the First Schedule on the value of the goods determined in accordance with section 14 of the Customs Act. In the above entry, the standard rates are 30% or as the case may be, 70%.

**Illustration**

*Briefly explain “standard unit of quantity” with reference to the First Schedule to the Customs Tariff Act, 1975.*

**Answer**

Standard Unit of Quantity is a unit of measure. It has been prescribed in column 3 of the First Schedule to the Customs Tariff for each tariff item to facilitate the collection, comparison and analysis of trade statistics. The unit of measure is
3.6 CUSTOMS & FTP

indicated by abbreviations. Some abbreviations are cc-cubic centimeter, cm-centimetre(s), g-gram(s), mt-metric tonne.

3. RULES OF INTERPRETATION OF THE FIRST SCHEDULE TO THE CUSTOMS TARIFF ACT

- Rule 1 – General Rule of Classification: 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 [i.e. rule 2 to 6].

ANALYSIS

The above rule lays down the following propositions:

(a) The titles of sections, chapters and sub-chapters do not have any legal force.

(b) Terms of headings read with relative section and chapter notes are legally relevant for the purpose of classification.

(c) The rules of interpretation need not be resorted to when classification is possible on the basis of description in heading, sub-heading, chapter notes and section notes.

(d) Notes of one chapter or section cannot be applied for interpreting entries in other chapters or sections.

Product: Letter closing and sealing machine

Sub-heading 8422 30 00: Machinery for filling, closing, sealing or labeling bottles, cans, boxes, bags or other containers; machinery for capsuling bottles, jars, tubes and similar containers; machinery for aerating beverages.

Sub-heading 8472 30 00 inter alia covers machines for closing or sealing mails.

Both the headings appear to be relevant for the product in question. However, chapter note 2 to chapter 84 inter alia provides that Heading No. 8422 does not cover office machinery of Heading No. 8472. Therefore, the product in question will be classified under 8472 30 00.
Illustration

Write a brief note on rule 1 of the Rules of Interpretation of the First Schedule to Customs Tariff Act, 1975.

Answer

Rule 1 of the general rules for interpretation states that the titles of sections, chapters and sub-chapters in the First Schedule to the Customs Tariff Act, 1975 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 chapter notes do not otherwise require, according to the subsequent rules.

Thus, the titles of sections, chapters and sub-chapters cannot be used to determine classification of a product.

Rule 2(a) Classification of Incomplete/Unfinished Articles

(i) 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.

(ii) It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), presented unassembled or dis-assembled.

ANALYSIS

(i) If any particular heading refers to a finished/complete article, the incomplete/unfinished form of that article shall also be classified under the same heading provided the incomplete/unfinished goods have the essential characteristics of the finished goods.

(ii) If any particular heading refers to a finished/complete article, the unassembled/dis-assembled form of that article shall also be classified under the same heading provided the unassembled/dis-assembled goods have the essential characteristics of the finished goods.

(a) Railway coaches removed without seats would still be railway coaches.

(b) A car without seats would still be classified as car.
Only goods requiring minor adjustments can be construed as having the essential character

Only goods requiring minor adjustments would be construed as having the essential character. Those requiring major processes like turning, grinding, broaching, groove cutting, heat treatment, surface treatment etc., cannot be construed as having the essential character of complete and finished articles and cannot fall within the scope of rule 2(a) of the General Interpretative Rules.

- **Rule 2(b) – Classification of Mixtures/Combinations of a Material/Substance with Other Materials/Substances**

(i) 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.

(ii) 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.

(iii) The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.

**ANALYSIS**

The following propositions are laid out by the above rule.

(a) Any reference to a material or substance would refer to mixture or combination of that material or substance.

(b) Any reference to goods containing a particular material or substance would include a reference to goods consisting wholly or partly of such specified material or substance.

- (a) The term coffee will include coffee mixed with chicory.
- (b) Natural rubber will cover a mixture of natural and synthetic rubber.

- **Rule 3 – Classification in case goods are classifiable under two or more headings:** The application of this rule arises when the goods consists of more than one material or substance.
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:

- **Rule 3(a) – Specific over general**
  
  (i) The heading which provides the most specific description shall be preferred to headings providing a more general description.
  
  (ii) 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 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.

**ANALYSIS**

The heading that provides a more specific description should be preferred over the heading that provides a general description.

**Relevant case law:** Electric shaving machine was classifiable under following two headings:

- **Heading No. 85.10:** Shavers and hair clippers with self contained electric motors
- **Heading No. 85.09:** Electro-mechanical domestic appliances with self-contained electric motor

The said product in the above instance would be classifiable under heading No. 85.10 as heading No. 85.10 is more specific as compared to heading No. 85.09.

- **Rule 3(b) – Essential character principle:** 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 with reference to (a), shall be classified as if they consisted of material which gives them their essential character, in so far as this criterion is applicable.

**ANALYSIS**

Sub-rule (b) would apply only if the goods cannot be classified under sub-rule (a). This sub-rule provides that composite goods should be classified on the basis of that material or substance that gives it its essential character.
In order to find out whether the incomplete article as imported has the essential character of the completed article, the tests to be applied would be whether the imported article has attained the approximate shape or outline of the finished article or part and whether it can only be used for completion into the particular finished article.

**Example**

**Product:** Lead pencil with an eraser at the back.

**Classification:** Though the above product is composite goods, the essential character is that it is a pencil and the attachment of eraser at the stub is only for the purpose of adding convenience to the user. Therefore, it shall be classified as a pencil and not as an eraser.

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

**ANALYSIS**

If both sub-rules (a) and (b) fails to classify the goods in question, then resort may be had to sub-rule (c), which provides that composite goods shall be classified on the basis of the heading that occurs last in numerical order.

**Relevant case law:**

*Mahindra and Mahindra v. CCE 1999 (109) E.L.T. 739 (Tribunal) [maintained by SC]*

When the goods cleared by assessee were equally classifiable under the following two headings:

**Heading No. 87.03:** Motor cars and other vehicles principally designed for the transport of persons.

**Heading No. 87.04:** Motor vehicles meant for transport of goods.

It was held that heading 87.04 occurs last and as both the headings equally merit classification, goods shall be classified under 87.04 applying the interpretative Rule 3(c).

- **Rule 4 – Akin Rule:** 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.
This rule is popularly referred to as Akin rule. This rule specifies that if the goods cannot be classified in accordance with the earlier rules, they shall be classified under the heading in which the most akin goods are classified.

**Product:** Plastic films used to filter or remove the glare of the sun light, pasted on car glass windows, window panes etc.

**Classification:** These goods do not find a specific entry in the tariff schedule. However, heading 3925 30 00 covers Builder’s wares of plastic not elsewhere specified – shutters, blinds (including Venetian blinds) and similar articles & parts thereof. Even though the product in question is not a builders ware, they are most akin to plastic blinds and hence it can be classified under 3925 30 00 heading.

- **Rule 5:** In addition to the foregoing provisions, the following rules shall apply in respect of goods referred to therein:

  (a) **Classification of cases/containers used for packaging of goods:** Camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers shall be classified with a specific article or a set of articles when of a kind normally sold therewith.

      Conditions to be fulfilled:-

      (i) These cases/containers are specially shaped or fitted to contain a specific article or a set of articles.

      (ii) These cases/containers are suitable for long term use and presented with the articles for which they are intended.

      This rule does not, however, apply to containers which give the whole its essential character.

  (b) **Classification of packing materials and packing containers:** Subject to the provisions of (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 material or packing containers are clearly suitable for repetitive use.
ANALYSIS

This rule lays down that:-

(i) Cases which are specially designed or fitted to contain a specific article and given with the articles for which they are intended shall follow the classification of the items which are packed.

(ii) The packing materials and containers cleared along with the goods are classifiable with the goods.

| Leather cases, which are normally supplied along with the goods, however costly they may be, need not be treated separately for the purpose of classification. |

Exceptions to rule 5

(a) Durable containers capable of repetitive use should be classified separately.

| Gas cylinders are meant for repetitive use and therefore cannot be classifiable along with gas. |

(b) When packing material itself gives the essential character as a whole.

● Rule 6: Only Sub-Headings at the Same Level are Comparable

(i) For legal purposes, the classification of goods in the sub-headings of a heading shall be determined according to the terms of those sub-headings and any related sub-heading notes and, mutatis mutandis, to the above rules, on the understanding that only sub-headings at the same level are comparable.

(ii) For the purposes of this rule the relative section and chapter notes also apply, unless the context otherwise requires.

The main proposition laid down by this rule is that sub-heading at the same level are comparable. This implies that a sub-heading can be compared only with another sub-heading within the same heading.

4. PROJECT IMPORTS

Project Imports are the imports of machinery, instruments, and apparatus etc., falling under different classifications, required for initial set up of a unit or for
substantial expansion of an existing unit. In a project several different items are required, each of which is importable at different rates of customs duties. Hence, it becomes very complicated to make assessment for such project imports. Therefore, one consolidated rate of customs duty has been made applicable for all items imported under a project irrespective of the nature of the goods and their customs classification. Further, individual exemption notification will apply even for items grouped under the said heading of the customs tariff liable to duty at the project rate as per recent Supreme Court judgement.

The items eligible for project import are specified in Heading 9801 of the Customs Tariff Act, 1975. These include all items of machinery, instruments, apparatus and appliances, components or raw materials etc. for initial setting up of a unit or for substantial expansion of the same. The spare parts, raw material and consumables stores up to 10% of the value of goods can be imported.

This scheme has been made applicable to Industrial Plants, Irrigation Projects, Power Projects, Mining Projects, Projects for Oil or Mineral Exploration and other projects as may be notified by the Central Government.

**Some judgements on classification**

1. **Saurashtra Chemicals v. CC 1986 (23) ELT 283 (Tri-LB) [approved by SC]**
   
   This case brings out the importance of section notes and chapter notes in the classification of goods. The Tribunal observed that Section Notes and Chapter Notes in the Customs Tariff are a part of the statute and thus are relevant in the matter of classification of goods. These notes sometimes restrict and sometimes expand the scope of headings. The scheme of the Customs Tariff is to determine the coverage of headings in the light of section notes and chapter notes. These notes, in this sense have an overriding effect on the headings.


   In this case, the Court observed that if a tariff heading is specially mentioned in exemption notification, the general interpretative rules would be applicable to such exemption notification. But, if an item is specifically mentioned without any tariff heading, then exemption would be available even though for the purpose of classification, it may be otherwise.

In this case the assessee was engaged in the manufacture of, and trading in, computers including Laptops (otherwise called ‘Notebooks’) falling under Heading 84.71 of the CTA Schedule. They imported Notebooks (Laptops) with Hard Disc Drivers (Hard Discs, for short) preloaded with Operating Software like Windows XP, XP Home etc. These computers were also accompanied by separate Compact Discs (CDs) containing the same software, which were intended to be used in the event of Hard Disc failure.

The assessee classified the software separately and claimed exemption. The court held that without operating system like windows, the laptop cannot work. Therefore, the laptop along with software has to be classified as laptop and valuation to be made as one unit.

### TEST YOUR KNOWLEDGE

1. What is the purpose of including Interpretation Rules in Customs Tariff? Do they form part of the Tariff Schedule? Explain the Akin Rule of interpretation.

2. Write a note on “Project Imports” under the Customs Tariff Act, 1975.

3. Explain rule 3 of the rules for Interpretation of the Customs Tariff.

### ANSWERS/HINTS

1. The Customs Tariff has a set of six Rules for Interpretation of the Tariff Schedule and three General Explanatory Notes. The six Rules of Interpretation and three General Explanatory Notes are integral part of the Tariff Schedule. The purpose of their inclusion in Customs Tariff is to standardize the manner in which the nomenclature in the schedule is to be interpreted so as to reduce classification disputes.

   Rule 4 of the Rules of Interpretation is called as akin rule. This rule lays down that goods which cannot be classified in accordance with rules 1, 2 and 3 of the Rules of Interpretation shall be classified under the heading appropriate to the goods to which they are most akin. In other words, akin rule’ is a residual rule which is to be applied when classification is not possible by applying any of the earlier rules. It is a rule of last resort.
2. Project Imports are the imports of machinery, instruments, and apparatus etc., falling under different classifications, required for initial set up of a unit or for substantial expansion of an existing unit.

Heavy customs duty on imported machinery for projects make the initial project cost very high and project may become unviable. Hence, concept of 'project import' is introduced to bring machinery etc. required for initial setup or substantial exemption at concessional customs duty.

In a project several different items are required, each of which is importable at different rates of customs duties. Thus, this simple method is adopted, as otherwise, classifying each machinery and its parts in different heads and valuing them would have been cumbersome and would have delayed clearances, which would cause demurrages. Further, individual exemption notification will apply even for items grouped under the said heading of the customs tariff liable to duty at the project rate as per recent Supreme Court judgement.

The items eligible for project import are specified in Heading 9801 of the Customs Tariff Act, 1975. These are: all items of machinery including prime movers, instruments, apparatus and appliances, control gear and transmission equipment, auxiliary equipment (including those for research and development, testing and quality control); as well as components or raw materials for manufacture of these items and their components; required for initial setting up of a unit or substantial expansion of a specified (1) industrial project (2) Irrigation project (3) Power projects (4) Mining project (5) Project for exploration of oils or other minerals and (6) Other projects as may be notified by Central Government.

The spare parts, raw material and consumables stores upto 10% of the value of goods can be imported.

Few of the eligible projects are:

(i) Industrial plant
(ii) Irrigation project
(iii) Power project
(iv) Mining project
(v) Oil & mineral exploration project
(vi) Other projects as notified by the Central Government

3. [Refer para 3]
SIGNIFICANT SELECT CASES

1. Where a classification (under a Customs Tariff head) is recognized by the Government in a notification at any point of time, can the same be made applicable in a previous classification in the absence of any conscious modification in the Tariff?

*Keihin Penalfa Ltd. v. Commissioner of Customs 2012 (278) ELT 578 (SC)*

**Facts of the Case:** Department contended that ‘Electronic Automatic Regulators’ were classifiable under Chapter sub-heading 8543.89 whereas the assessee was of the view that the aforesaid goods were classifiable under Chapter sub-heading 9032.89. An exemption notification dated 1-3-2002 exempted the disputed goods by classifying them under chapter sub-heading 9032.89. The period of dispute, however, was prior to 01.03.2002.

**Point of Dispute:** The dispute was on classification of Electronic Automatic Regulators.

**Supreme Court’s Decision:** The Apex Court observed that the Central Government had issued an exemption notification dated 1-3-2002 and in the said notification it had classified the Electronic Automatic Regulators under Chapter sub-heading 9032.89. Since the Revenue itself had classified the goods in dispute under Chapter sub-heading 9032.89 from 1-3-2002, the said classification needs to be accepted for the period prior to it.

2. Whether the mobile battery charger is classifiable as an accessory of the cell phone or as an integral part of the same?

*State of Punjab v. Nokia India Private Limited 2015 (315) ELT 162 (SC)*

In this case, the assessee classified the mobile battery charger as an integral part of the main product i.e. Nokia mobile phone. It contended that cell phone could not be operated without the charger. Further, mobile battery chargers were provided free with the cell phone in a composite package. Therefore, it applied the concessional rate of tax on the mobile battery charger also, as applicable on the mobile phone. However, it also admitted that whenever it sold the chargers separately, tax was not charged at the concessional rate.

According to Department, a battery charger was not a part of the cell phone but merely an accessory thereof. Thus, concessional rate of tax applicable on cell phones was not applicable to the mobile battery chargers.
Supreme Court’s Observations: The Supreme Court decided the case in favour of Revenue and against the assessee holding that the battery charger is not a part of the mobile/cell phone but an accessory to it, on the basis of the following observations:

(i) Had the charger been a part of cell phone, cell phone could not have been operated without using the battery charger. However, as a matter of fact, it is not required at the time of operation. Further, the battery in the cell phone can be charged directly from the other means also like laptop without employing the battery charger, implying thereby, that it is nothing but an accessory to the mobile phone.

(ii) As per the information available on the website of the assessee, it had invariably put the mobile battery charger in the category of an accessory which means that in the common parlance also, the mobile battery charger is understood as an accessory.

(iii) A particular model of Nokia make battery charger was compatible with many models of Nokia mobile phones and also many models of Nokia make battery chargers are compatible with a particular model of Nokia mobile phone, imparting various levels of effectiveness and convenience to the users.

(iv) Rule 3(b) of the General Rules for Interpretation of the First Schedule of the Customs Tariff Act, 1975 can also not be applied in the assessee’s case as merely making a composite package of cell phone and mobile battery charger will not make it composite goods for the purpose of interpretation of the provisions.

Supreme Court’s Decision: The Apex Court held that mobile battery charger is an accessory to mobile phone and not an integral part of it. Further, battery charger cannot be held to be a composite part of the cell phone, but is an independent product which can be sold separately without selling the cell phone.

Note: Though the above judgement has been rendered in context of VAT laws, the principle of classification of mobile charger may hold good in case of customs classification matter as well.

3. Will the description of the goods as per the documents submitted along with the Shipping Bill be a relevant criterion for the purpose of
classification, if not otherwise disputed on the basis of any technical opinion or test? (ii) Whether a separate notice is required to be issued for payment of interest which is mandatory and automatically applies for recovery of excess drawback?

*M/s CPS Textiles P Ltd. v. Joint Secretary 2010 (255) ELT 228 (Mad.)*

**High Court’s Decision:** The High Court held that the description of the goods as per the documents submitted along with the Shipping Bill would be a relevant criterion for the purpose of classification, if not otherwise disputed on the basis of any technical opinion or test. The petitioner could not plead that the exported goods should be classified under different headings contrary to the description given in the invoice and the Shipping Bill which had been assessed and cleared for export.

Further, the Court, while interpreting section 75A(2) of the Customs Act, 1962, noted that when the claimant is liable to pay the excess amount of drawback, he is liable to pay interest as well. The section provides for payment of interest automatically along with excess drawback. No notice for the payment of interest need be issued separately as the payment of interest becomes automatic, once it is held that excess drawback has to be repaid.

*The Headings cited in some of the case laws in this chapter may not correlate with the Headings of the present Customs Tariff as these cases relate to an earlier point of time.*

*Note - Case laws given in this Chapter are solely for the understanding of provisions relating to classification.*