

ARTICLE

Rooh Afza, Residuary Entries and the Revival of Classification Principles: A Landmark VAT Ruling by the Supreme Court

Ashwarya Sharma, Advocate | Co-Founder & Legal Head, RB LawCorp



1. Introduction

Classification disputes have always occupied a central space in indirect tax jurisprudence, often determining the fiscal fate of an industry. The recent decision of the Supreme Court in

Hamdard (Wakf) Laboratories vs Commissioner, Commercial Tax, UP Commercial ([2026-VIL-20-SC](#)) revisits these foundational principles in the context of the iconic beverage "**Rooh Afza**".

The controversy revolved around whether the product was taxable at 4% as a "**fruit drink**" under Entry 103 of Schedule II, Part A of the UPVAT Act, or under the **residuary entry** at 12.5%. The fiscal stakes were significant, but the jurisprudential implications even more so.

Interestingly, the Supreme Court **reversed** a detailed judgment of the High Court which had affirmed classification under the residuary entry. In doing so, the Court has reaffirmed settled doctrines governing interpretation of taxing entries, burden of proof, and the limited role of regulatory classifications in fiscal statutes.

2. Factual Background

The appellant manufactures "Sharbat Rooh Afza", a non-alcoholic sweetened beverage concentrate prepared from invert sugar blended with fruit juices, vegetable extracts and flavouring substances. The **fruit content** was stated to be approximately **10%** during the relevant assessment years.

Treating the product as a "Fruit Drink" or "Processed Fruit" under Entry 103 of Schedule II, Part A of the UPVAT Act, the appellant discharged VAT at 4%. Entry 103 covered "processed or preserved vegetables and fruits including fruit jams, jelly, pickle, fruit squash, paste, fruit drink and fruit juice."

The Assessing Authority, however, classified the product as an unclassified item under the residuary entry in Schedule V taxable at **12.5%**. The appellate hierarchy, including the **Tribunal and the High Court, affirmed this view**, compelling the appellant to approach the Supreme Court.

3. Proceedings before the High Court

The High Court upheld the Tribunal's view that "Sharbat Rooh Afza" did not qualify as a "fruit drink". It applied the common parlance test and concluded that in the absence of the word "sharbat" in Entry 103, the product could not fall within that entry.

Emphasis was placed on the regulatory classification under the Fruit Products Order (FPO), 1955 and the licensing description of the product as a "Non-Fruit Syrup / Sharbat". On that basis, it was held exigible at 12.5% under the residuary entry.

4. Contentions of the Parties

4.1 Of the Petitioner

The appellant contended that "Sharbat Rooh Afza" has been consumed in India for decades as a summer fruit-based beverage preparation. It contains not less than 10% fruit juice and derives its identity from fruit-based constituents and allied extracts.

Reliance was placed on *Hamdard Dawakhana (Wakf), Delhi v. Union of India* AIR 1965 SC 1167 and *Mauri Yeast India Pvt. Ltd. v. State of Uttar Pradesh* [[2008-VIL-14-SC](#)] to submit that where a product reasonably fits within a specific entry, recourse to the residuary entry is impermissible.

It was further contended that regulatory definitions under the FPO or FSSAI cannot control the interpretation of an undefined fiscal entry, and that the **essential character test** must be applied.

4.2 Of the Respondent Department

The Department argued that Entry 103 does not expressly include "Sharbat" and that the product contains only 10% fruit juice. In light of Clause 11 of the FPO prescribing a 25% threshold for describing a product as fruit syrup, it was contended that the product must be treated as "Non-Fruit Syrup".

Relying on the **common parlance test**, it was submitted that consumers and traders would not understand a product labelled as "Non-Fruit Syrup" to be a fruit drink. Hence, classification under the residuary entry was justified.

5. Issue before the Supreme Court

The central issue was whether "Sharbat Rooh Afza" was classifiable under Entry 103 of Schedule II, Part A taxable at 4%, or under the residuary entry in Schedule V taxable at 12.5% under the UPVAT Act.

6. Decision of the Supreme Court

(i) Relevant Entry under the UPVAT Act

The Court first reproduced the relevant statutory entry:

Schedule	Part	Entry No.	Description	VAT Rate
Schedule II	Part A	103	Processed or preserved vegetables and fruits including fruit jams, jelly, pickle, fruit squash, paste, fruit drink and fruit juice (whether in sealed containers or otherwise)	4%

The Court noted that the entry is inclusive in nature and does not prescribe any quantitative threshold of fruit content.

(ii) Regarding regulatory classification under food laws

The Court accepted the submission that regulatory classification under food safety legislation cannot solely govern interpretation of an undefined fiscal entry. Fiscal statutes must be interpreted in their own language unless they expressly adopt external definitions.

Standards framed under the FPO or by FSSAI operate in the domain of quality control and consumer protection, and cannot be determinative for taxation purposes.

(iii) Regarding applicability of the common parlance test

Since "fruit drink" was not defined under the UPVAT Act, the Court applied the common parlance test, referring to decisions from *Ramavatar Budhaiprasad v. Assistant Sales Tax Officer* ([1961-VIL-01-SC](#)) to *CCE v. Connaught Plaza Restaurant (P) Ltd.* ([2012-VIL-04-SC-CE](#))

It reiterated that classification must be based on how the product is understood in commercial and popular sense, having regard to its composition, label, character and user, and not merely regulatory description.

(iv) Regarding burden on Revenue to change classification

The Court emphasised that where the Revenue seeks to classify a product under a residuary entry different from that claimed by the assessee, the burden lies squarely upon the Department.

Reliance was placed on *Hindustan Ferodo Ltd v. Collector of Central Excise* ([1996-VIL-06-SC-CE](#)) and *HPL Chemicals Ltd v. Commissioner of Central Excise* ([2006-VIL-32-SC-CE](#))

In the present case, the Revenue failed to produce trade enquiries, consumer surveys or objective market evidence to establish that the product is not commercially understood as a fruit-based beverage preparation. Mere reliance on licensing nomenclature was held insufficient to discharge the burden.

(v) Regarding the essential character test

The Court referred to Rule 3(b) of the HSN Explanatory Notes and the decision in *Kemrock Industries and Exports Ltd. v. Commissioner of Central Excise* ([2007-VIL-175-SC-CE](#))

It held that quantitative predominance of an ingredient is not decisive if that ingredient merely performs a facilitating or preservative role. The component which imparts the distinctive identity and functional utility determines classification.

Applying this principle, though invert sugar syrup constituted around 80%, it merely functioned as a carrier and preservative. The fruit-based constituents imparted the beverage identity and essential character of the product.

(vi) Regarding borrowing the meaning of "Sharbat" from tariff legislation

The Court also took note of Chapter Note 3 of Chapter 21 of the Central Excise Tariff Act, 1985 defining "Sharbat" as a non-alcoholic sweetened beverage containing not less than 10% fruit juice or flavoured with recognised flavouring bases.

This legislative understanding recognised sharbat as a beverage preparation having nexus with fruit content or flavouring bases, thereby supporting the appellant's contention that the product cannot be treated as a mere sugar solution.

(vii) Regarding rule against resort to residuary entry

The Court relied upon *Dunlop India Ltd v. Union of India* ([1975-VIL-06-SC-CE](#)) and reiterated the classic caution against consigning goods to the "orphanage of the residuary clause" when they bear a reasonable claim to a specific entry.

Residuary entries are to be invoked only when classification under a specific enumerated entry is clearly not possible. Ambiguity cannot justify mechanical resort to the residuary clause.

(viii) Regarding persuasive value of classification in other States

The Court observed that similarly worded VAT entries in other States such as Delhi, Gujarat, West Bengal, Madhya Pradesh and Andhra Pradesh had classified the product as a fruit drink at concessional rates.

While VAT is a State subject and such classifications are not binding, uniform treatment across jurisdictions possesses persuasive evidentiary value in determining commercial understanding of the product.

7. Conclusion

The Supreme Court ultimately held that once it is demonstrated that the product is a fruit-based beverage preparation intended for dilution and consumption, it bears a reasonable and substantial claim to classification as a "fruit drink". Regulatory description as "Non-Fruit Syrup" is not determinative for fiscal purposes.

At the very least, two plausible views existed. In such a situation, the interpretation favourable to the assessee must prevail. The Revenue having failed to discharge its burden, recourse to the residuary entry was impermissible.

Accordingly, it was held that "Sharbat Rooh Afza" is classifiable under Entry 103 of Schedule II, Part A of the UPVAT Act and taxable at 4%. The High Court judgment affirming levy at 12.5% under the residuary entry was set aside.

Applicability of the ruling to GST classification

Though rendered in the context of the UPVAT Act, the ratio of the judgment carries significant persuasive value under the GST regime. Classification disputes under GST continue to be governed by the Harmonised System of Nomenclature (HSN), the General Rules for Interpretation, and well-settled principles such as the **common parlance test**, the **essential character test**, and the rule against mechanical resort to residuary entries. The Court's reiteration that regulatory or licensing descriptions cannot control fiscal interpretation is equally relevant under GST, particularly in cases involving food and beverage products regulated by FSSAI. Moreover, the emphasis on burden of proof resting upon the Department where it seeks to deny a specific entry and push goods into a higher-tax residual category assumes even greater importance in a multi-rate GST structure. The decision therefore reinforces that under GST as well, classification must be evidence-based, textually anchored, and guided by commercial understanding rather than administrative convenience.

[Date: 05/03/2026]

(The views expressed in this article are strictly personal.)