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## Decoding Classification Under Customs Law: The Supreme Court's Masterclass in Welkin Foods

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### A. Introduction

Classification disputes under indirect tax laws are often perceived as dry exercises involving tariff entries, competing headings, and technical descriptions. Yet, from time to time, a judgment emerges that transforms this seemingly mechanical task into a deeply principled judicial exercise. The decision of the Hon'ble Supreme Court in *Commissioner of Customs (Import) v. Welkin Foods*<sup>1</sup> is one such ruling.

At the very outset, it must be stated that while utmost care has been taken by the author to keep this article concise, that endeavour has met with only limited success. The failure to compress the discussion any further is not for lack of editorial discipline, but rather a reflection of the sheer breadth and depth of concepts examined by the Hon'ble Court. The judgment traverses a wide doctrinal landscape—common parlance, technical meaning, end use, eo-nomine entries, intended use, HSN architecture, and the General Rules of Interpretation—each treated with remarkable clarity and nuance.

What may appear, at first blush, to be a routine classification dispute thus unfolds into a comprehensive judicial exposition on the principles governing tariff interpretation. Authored by Hon'ble Mr. Justice J.B. Pardiwala, the judgment does not merely apply settled law; it organises, rationalises, and systematises decades of jurisprudence into a coherent analytical framework. This article, therefore, seeks to capture and explain the various principles articulated by the Supreme Court in *Welkin Foods*, with the limited objective of making them accessible and practically useful for students, practitioners, and adjudicators engaged with classification disputes under indirect tax laws.

### B. Common Parlance Test and Its Applicability

#### B.1 Conceptual Foundation of Common Parlance

The Supreme Court reaffirmed the settled principle that where a term used in a taxing statute is not defined, it must ordinarily be understood in the sense in which it is recognised by those who deal with it. This is commonly referred to as the "common parlance test", though the Court clarified that the expression also subsumes trade, commercial, and popular parlance, depending upon context.

The rationale behind this approach lies in legislative intent. Fiscal statutes are addressed to traders and consumers, not to scientists or technical experts. Consequently, unless the statute expressly adopts a technical meaning, the understanding prevalent in the market must ordinarily prevail.

The Court reiterated that if the legislature intended a scientific or technical meaning, it would have said so explicitly. In the absence of such indication, courts must assume that words are used in their ordinary commercial sense.

#### B.2 Sub-classification and the Doctrine of Substantial Transformation

An important clarification made by the Court is that the mere fact that a product is a sub-type of a broader category does not automatically confer upon it a separate commercial identity for classification purposes.

To successfully claim classification outside a general category, the assessee must establish that the product has undergone a "substantial transformation" such that it is no longer identifiable with the broader class. The operative standard, therefore, is one of substance rather than form.

Incidental or minor modifications, which do not alter the essential nature, character, utility, or function of the product, are insufficient. The inquiry must focus on whether the product exhibits major differences in design, utility, and function, warranting recognition as a distinct commercial entity.

## **C. When Technical or Scientific Meaning Prevails**

### **C.1 Statutory Silence as a Pre-condition**

The Court cautioned that the common parlance test is not a default rule of interpretation. Its application is confined to situations where the statute is silent—either expressly or impliedly—on the meaning of the term in question.

Where the tariff entry, Section Notes, Chapter Notes, or HSN Explanatory Notes provide a definition, description, or technical criteria, such statutory guidance must prevail over trade understanding.

### **C.2 Governing Principles Summarised by the Court**

The Supreme Court comprehensively summarised the principles governing the application of common parlance, emphasising that it must be applied restrictively and cannot override clear statutory mandates.

In an HSN-based regime, common parlance cannot serve as the starting point. It becomes relevant only after the Court exhausts all statutory aids and finds genuine ambiguity. Further, when invoked, the party relying on common parlance bears the burden of producing credible evidence to establish how the goods are understood in trade or commerce.

The Court also clarified that common parlance is used not to define a term in the abstract, but to determine its scope—namely, whether the product in question falls within or outside a broadly accepted category.

## **D. Relevance of "End Use" in Classification**

### **D.1 The 'As Imported' Principle and Limited Role of Use**

The Court reiterated the foundational principle that classification must ordinarily be determined based on the condition of the goods at the time of import. Actual use post-import is generally irrelevant, as the taxable event under customs law is importation itself. Consideration of use is permissible only where the tariff entry expressly or impliedly incorporates use or adaptation as a criterion.

### **D.2 Explicit and Inherent Use in Tariff Headings**

Where a tariff entry explicitly refers to use—such as goods "for therapeutic or prophylactic use"—use becomes a legally relevant factor because the statute itself mandates such inquiry.

Use may also be inherent in certain *eo-nomine* headings, where the identity of the product is inseparable from its function. In such cases, function and design become legitimate indicators of intended use.

### **D.3 Intended Use versus Actual Use**

The Court drew a clear distinction between actual use and intended use. While actual use is ordinarily irrelevant, intended use may be considered provided it is inherent in the goods and discernible from their objective characteristics, such as design, composition, and function.

Subjective intention of the importer is immaterial. What matters is whether the goods, by their intrinsic features, meet the standard of use prescribed by the tariff entry—be it sole use, principal use, or specified use.

## **E. Importance of HSN and General Rules of Interpretation (GIR)**

### **E.1 Centrality of GIR 1**

The Court underscored that classification under the Customs Tariff Act, 1975 must begin with GIR 1, which accords primacy to the terms of the headings and the relevant Section and Chapter Notes.

GIRs 2 to 4 operate sequentially and contingently. They are not alternative choices but structured steps, each invoked only when the preceding rule fails to yield a conclusive result.

### **E.2 Binding Nature of HSN Explanatory Notes**

The HSN Explanatory Notes were recognised as the official international interpretation of the Harmonised System and therefore constitute binding guidance where the domestic tariff entry is aligned with the HSN.

The Court clarified that deviation from the HSN is permissible only where the domestic statute clearly and unambiguously expresses a contrary legislative intent. Absent such deviation, reliance on the Explanatory Notes is not merely persuasive but authoritative.

## **F. Conclusion**

The decision in *Welkin Foods* marks a significant moment in the evolution of classification jurisprudence in India. Rather than adding another isolated precedent, the Supreme Court has synthesised decades of case law into a coherent interpretative framework. The judgment reminds us that classification is not an exercise in creative interpretation but a disciplined inquiry rooted in statutory text, HSN structure, and objective characteristics of goods. It also cautions against the mechanical invocation of doctrines such as common parlance or end-use, emphasising that each has a defined and limited role.

For practitioners, the ruling serves as a practical roadmap on how to argue classification disputes with doctrinal precision. For adjudicators, it offers a structured methodology that promotes certainty and uniformity. Above all, *Welkin Foods* reinforces the principle that classification, though technical, is ultimately an exercise in legal reasoning guided by legislative intent.

**From a GST perspective**, the significance of *Welkin Foods* extends well beyond customs law. Although GST is a destination-based consumption tax, classification under GST remains firmly anchored to the Customs Tariff Act, 1975, by virtue of the adoption of HSN codes for rate determination, exemptions, and compliance. The principles reiterated by the Supreme Court—particularly the primacy of statutory text, the limited role of common parlance, the disciplined application of end-use, and the binding guidance of HSN Explanatory Notes—apply with equal force to GST classification disputes.

In an era where classification controversies under GST frequently arise in the context of rate notifications, exemption entries, and inverted duty structures, *Welkin Foods* serves as a timely reminder that interpretative shortcuts have no place in a harmonised classification regime. The judgment reinforces that neither trade nomenclature nor revenue convenience can override the structured hierarchy of the tariff, the General Rules of Interpretation, and legislative intent. As GST jurisprudence continues to mature, the analytical discipline reaffirmed in *Welkin Foods* is likely to play a decisive role in bringing doctrinal consistency and predictability to classification disputes under the GST framework as well.

1. (2026) 38 Centax 104 (S.C.) = 2026 (395) E.L.T. 273 (S.C.)