

THE BURNING COAL - II

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Coal is a combustible black or brownish black sedimentary rock usually occurring in [rock strata](#) in layers or veins called **coal beds** or **coal seams**. The harder forms, such as anthracite coal, can be regarded as metamorphic rock because of later exposure to elevated temperature and [pressure](#). Coal is composed primarily of [carbon](#) along with variable quantities of other elements, chiefly [hydrogen](#), [sulfur](#), [oxygen](#), and [nitrogen](#).

Coal is a very useful natural resource as a fossil fuel. It is primarily burnt for the production of electricity and/or heat, and is also used for industrial purposes, such as refining metals. Coal is formed when dead plant matter is converted into [peat](#), which in turn is converted into [lignite](#), then sub-bituminous coal, after that bituminous coal, and lastly [anthracite](#). This involves biological and geological processes that take place over a very long period.

Coal is the largest source of energy for the generation of electricity worldwide, as well as one of the largest worldwide anthropogenic sources of [carbon-di-oxide](#) releases and is extracted from the ground by [coal mining](#), either underground by shaft mining, or at ground level by [open pit mining](#) extraction.

Coal comprises a series of substances, the classification of which has been attempted by many decades past. The classification of coal is generally based on the content of volatiles. A broader and a universal classification of coal is as under:

- **Peat**, considered to be a precursor of coal, has industrial importance as a fuel. In its dehydrated form, peat is a highly effective absorbent for fuel and oil spills on land and water. It is also used as a conditioner for soil to make it more able to retain and slowly release water.
- **Lignite**, or brown coal, is the lowest rank of coal and used almost exclusively as fuel for electric power generation.
- **Sub-bituminous coal**, whose properties range from those of lignite to those of bituminous coal, is used primarily as fuel for steam-electric power generation.
- **Bituminous coal** is a dense sedimentary rock, usually black, but sometimes dark brown, often with well-defined bands of bright and dull material; it is used primarily as fuel in steam-electric power generation, with substantial quantities used for heat and power applications in manufacturing and to make [coke](#).
- **Anthracite**, the highest rank of coal, is a harder, glossy black coal used primarily for residential and commercial [space heating](#).

- **Graphite**, technically the highest rank, is difficult to ignite and is not commonly used as fuel — it is mostly used in pencils and, when powdered, as a [lubricant](#).

Coal has many importances worldwide. As stated above, the most significant uses of coal are in electricity generation, steel production, cement manufacturing and as a liquid fuel. Apart from the classification of the coal by its technical parameters and volatile qualities, coal is also classified depending on its uses as Steam coal – also known as thermal coal – which is mainly used in power generation and Coking coal – also known as metallurgical coal – which is mainly used in Steel production.

Steam coal, which is primarily used as a solid fuel to produce electricity and heat through combustion, is usually pulverized and then combusted (burned) in a furnace with a boiler. The furnace heat converts boiler water to steam, which is then used to spin turbines, which turn generators and create electricity.

Now coming to the imported coal, they are essentially understood in the trade only as “Steam Coal”. In other words, the entire trade, be it the overseas supplier, the importers or the subsequent domestic buyer/user or the surveyors (both at load port as well as discharge port), recognises the imported coal only as “Steam Coal”.

It is a well settled law that, while classifying the goods, the popular and commercial meaning of the trade is very

relevant as against the scientific/ technical parameters. In this connection, kind reference is drawn to the Madras High Court in the case of **M/s Sanmar Electronics Corporation Ltd Vs UOI** as reported in **2010(252) E.L.T 332(MAD**, wherein it has been held that

"12. Further in order to interpret the classification of goods one has to construe the same in the sense in which the persons who deal in such goods understand it normally. The reason is that the persons who are concerned with the goods know it better, it is the sense in which they understand it which constitutes the definitive index of legislative intention. The goods must also be classified according to their popular meaning and also the commercial sense as well. The court has to select the meaning which is relevant to the context, in which it has to interpret the word. The functional test is also a relevant factor."

Reliance is also placed to the decision of the Hon'ble Apex Court in the judgment reported in **1996 (87) E.L.T. 12 (S.C.) [Union of India v. Garware Nylons Ltd.]** wherein it has been observed as follows:

"12. The law on the point as laid down by this Court (in various decisions) has been summarised in the book "Principles of statutory Interpretation" (Sixth

Edition - 1996) by Justice G.P. Singh, at pages 67, 70, 72 and 73, thus :

".....So in construing entries of goods in Excise, Customs of sales Tax Acts resort should normally be had not to the scientific or technical meaning but to their popular meaning viz. the meaning attached to the expressions by those dealing in them.....The popular meaning in the context of a Sales Tax Act is that meaning which is popular in commercial circles for the Act essentially, in its working, is concerned with dealers who are commercial men."

13. Stated briefly, we should understand, the expression occurring in Item 18 of the Act, in the sense, in which the persons who deal in such goods understand it normally."

Kind reference is also drawn to the decision of the Hon'ble High Court of the Kerala in the case of **Southern Gas Ltd Vs State of Kerala** as reported in **2005 (139) STC 504**, wherein it has been held as follows:

"14.The goods must be classified according to their popular meaning or as they are understood in their commercial sense and not as per the scientific or technical meaning.

Thus, from the above judicial pronouncements, even assuming without admitting, if the imported coal merits

classification under Chapter 2701 1200 as bituminous coal by virtue of the Chapter note 2, the same also merits classification under Chapter heading 2701 1920 as "Steam Coal" by its functionality and common trade parlance.

Reliance is placed on the decision of Hon'ble Apex Court in the case of **Commissioner of Central Excise, Bhopal vs. Minwool Rock Fibres Ltd., reported in 2012 (278) ELT 581 (S.C)**, wherein the Hon'ble Apex Court has held that when there are two competitive entries then in a classification dispute an entry which is beneficial to the assessee requires to be applied. Further the Hon'ble Apex court in the case of **STP Ltd., reported in 1998 (97) ELT 16 (SC)** has held that if there is any dispute in construction of any provision of a taxing statute, that doubt must be resolved in favour of the assessee.

After an analysis on interpretation let's do some on intention in **Part III...**