

Issue: Classification of Shower gel

Item under reference: Shower gel presented in a plastic bottle of 250ml, put up for retail sale.

Possible classification: As bath preparations classifiable in sub heading 3307.30.00 or as liquid soaps classifiable in sub heading 3401.30.00.

Description of goods

The product at issue is a shower gel, of different scents (sunny melon and powerfruit), put up for retail sale. The labeling of the product reads as follows: “Discover the unique combination of freshness and rich care under the shower. Delight your senses with the fruity scent of the honeydew melon, while the silky fresh gel with pampering oil pearls turns into caring soft foam- for the unique sensation of soft, well-cared skin. Indulge yourself with every shower.”

Matter of considerations

- Note (III) to Heading 33.07 states: *“Bath preparations, such as perfumed bath salts and preparations for foam baths, whether or not containing soap or other organic surface-active agents (Note 1 (c) of Chapter 34 refers).”*
- Heading 34.01 – *“Soap; organic surface-active products and preparations for use as soap, in the form of bars, cakes, moulded pieces or shapes, whether or not containing soap; organic surface-active products and preparations for washing the skin, in the form of liquid or cream and put up for retail sale, whether or not containing soap; paper, wadding, felt and nonwovens, impregnated, coated or covered with soap or detergent.”*
- Note (III) to Heading 34.01 states: *“This part includes preparations for washing the skin, in which the active component consists wholly or partly of synthetic organic-surface active agents (which may contain soap in any proportion), provided they are in the form of liquid or cream and put up for retail sale. Such preparations not put up for retail sale are classified in heading 34.02”.*
- Note 1(c) to Chapter 34 does not cover shampoos, dentifrices, shaving creams and foams, or bath preparations, containing soap or other organic surface-active agents (heading 33.05, 33.06, or 33.07).
- Definition of bathe and shower bath as per the Concise Oxford:
Bathe - “Immerse oneself in water, esp. to swim” or “Immerse in or wash or treat with liquid esp. for cleaning or medicinal purposes.”
Shower bath - “a cubicle, bath, etc. in which one stands under a spray of water”, or “the act of bathing in a shower”.

Basis of Ruling

For bathing, liquid soap or bath mixtures are poured in a tub of water to produce foams and there is no necessity to rinse the body after the bath. However, in the case of shower gel, it is meant to be poured onto hands, rubbed all over the body and most essentially, it should be rinsed off with water.

The product at issue contains sodium laureth sulfate, cocamidopropyl betaine, disodium cocoyl glutamate, PEG-7 glyceryl cocoate, all of which are surfactants that are commonly used in shower products. Additionally, referring to the dictionary meaning of the two words, i.e, shower and bath, it is opined that the product is not for use in a bathtub and rinsing with water is required. Hence, HS Code 3307.30.00, as a bath preparation, is ruled out.

The product is a liquid soap for washing the skin while taking shower and the appropriate classification of the shower gel is 3401.30.00 by application of GIR 1, note 1(c) to chapter 34 and GIR 6.