

**OFFICE OF THE COMMISSIONER OF CUSTOMS
NEW CUSTOM HOUSE: PANAMBUR: MANGALORE-10**

C.No.S-11/03/2010 Drawback

Date:03.03.2010

PUBLIC NOTICE NO.01/2010

**Sub: Classification of artware / handicraft items and composite goods in the
Drawback Schedule - reg.**

It has been brought to notice of the Board that difficulties are being faced by exporters in classification of articles declared as handicraft/artware items. It has also been brought to notice that divergent practices are being followed in classifying the goods made of different constituent materials in the Drawback Schedule and applying Note 14 of the Drawback Schedule notification No.103/2008-Cus (N.T.), dated 29.08.2008 in this regard.

2. The matter has been examined. It may be recalled that the Board vide circular no. 128/39/95-CX, dated 25.5.1995 had clarified that since the office of Development Commissioner (Handicraft) has treated imitation or real zari as handicrafts the same may be treated as handicrafts by the Customs and central Excise authorities. However the Board vide circular no. 280/114/96-CX, dated 19.12.1996 modified this guideline by stating that the following criteria laid down by the Supreme Court in the case of Louis Shoppe [1996 (10) CXL (SC) CE-277=(1996)(13)RLT 507 (SC)] for treating any goods as handicrafts may also be followed:-

(i) It must be predominantly made by hand; it does not matter if some machinery is also used in the process.

(ii) It must be graced with visual appeal in the nature of ornamentation or in-lay work or some similar work lending it an element of artistic improvement. Such ornamentation must be of substantial nature and not a mere pretence.

3. The Board reiterated these guidelines vide circular No. 32/99-Cus dated 04.06.99. The Board vide subsequent circular No. 56/99-Cus, dated 26.08.99 advised the field formations that they can accept the certificates issued by either the Development Commissioner (Handicrafts) or by the Export Promotion Council for Handicrafts (EPCH).

4. It is hereby clarified that the assessing authorities should normally accept the certificates issued by the Development Commissioner (Handicrafts)/EPCH. A decision to reject the certificate issued by the Development Commissioner (Handicrafts)/EPCH certifying the goods as artware/handicraft should be taken only with the approval of the Commissioner of Customs / Central Excise and after discussions with the certificate issuing authority. The exports should not, in the mean time, be held up.

5. Doubts have also been expressed relating to interpretation of note and condition (3) of the Drawback Schedule notification No.103/2008-Cus (N.T.) dated 29.08.2008. The note and condition provides as follows:

"Notwithstanding anything contained in the said Schedule, all artware or handicraft items shall be classified under the heading of artware or handicraft (of constituent material) as mentioned in the relevant Chapters."

The essence of this condition is that while the Drawback Schedule is aligned with the Customs Tariff at the 4 digit level, this alignment is not applicable to Artware/Handicraft items. Artware/handicraft item made of a particular constituent material has to be classified under the heading of Artware/Handicraft (of that constituent material) as mentioned in the Chapter relevant to that constituent material. It may be noted that according to this note, the artware/handicraft items may fall in a heading/sub-heading in a chapter other than the chapter in which they fall according to Harmonized

System of classification. To illustrate, a handicraft table made of stainless steel would fall under CTH 9403 as per HSN. It would, however, fall under Drawback Schedule heading 732606 (Handicraft/Artware of Stainless Steel) as per the above note. It may also be noted that if the artware or handicraft item is made of more than one constituent material, it should be classified as if it is made of that constituent material which predominates in it by weight. For example, an artware/handicraft item made of brass, iron and wood; consisting, say, 40% by weight of brass, 35% by weight of iron and 25% by weight of wood, should be classified as artware/handicraft of brass under Drawback Schedule heading 741903 and granted drawback at the rate and cap prescribed there under.

6. Further, it is also clarified that the relevant headings/sub-headings in the Drawback Schedule for handicraft/artware items include handicraft/artware items with coating/plating unless specifically provided otherwise.

7. Problems have also been reported in classification of composite articles. Note and condition No. 14 of the Drawback Schedule notification *ibid*, provides that whenever a composite article is exported for which any specific rate has not been provided in the said Schedule, the rates of drawback applicable to various constituent materials can be extended to the composite article according to net content of such materials. It may be noted that this Note is applicable only to composite articles for which no specific rate has been provided in the Drawback Schedule and not to articles which fall in one or the other headings/sub-headings of the Drawback Schedule (which could be a residuary heading 'others') and have a drawback rate. Therefore, it is clarified that articles made of more than one constituent material should be classified under a heading/sub-heading of the Drawback Schedule in accordance with conditions (1) and (2) of the Drawback Schedule or if the goods are artware or handicraft items in accordance with condition (3) of the Drawback Schedule as discussed in para 5 above. Once, classification of an article (whether artware/handicraft or other) in a heading/sub-heading of the drawback schedule has been determined, then the drawback rate and cap prescribed against that heading/sub-heading should be applied to the whole article irrespective of the value or weight of different constituents.

8. Note and condition 14 of the Drawback Schedule notification *ibid* should be invoked only if it is found that an article cannot be classified in any of the headings/sub-headings of the Drawback Schedule (not even in residuary heading/sub-heading "others"), in accordance with the above principles. However, such cases may be immediately brought to notice of the Board so that suitable headings/sub-headings may be created in the Drawback Schedule for future.

(M.AJIT KUMAR)
COMMISSIONER

(Authority: Board's Circular No.03/2010 Customs dated 12th February, 2010 issued from F.No.609/27/2009-DBK)