

COLLECTOR OF CENTRAL EXCISE, NEW DELHI

v.

LOUIS SHOPPE AND ANR.

MARCH 12, 1996

[B.P. JEEVAN REDDY AND S. SAGHIR AHMAD, JJ.]

*Excise—Notification No. 76 of 1986 dated 10.2.1986—'Handicrafts'—What are—Test for determination of handicrafts laid down—Wooden furniture—Can be characterised as handicrafts only if satisfies the requirements laid down—View taken in order under appeal held not in accordance with test laid down by Supreme Court—Direction to apply prospectively the principles laid down in all pending matters.*

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 9217-18 of 1995.

From the Judgment and Order dated 21.11.94 of the Central Excise Customs and Gold (Control) Appellate Tribunal New Delhi in F.O.No. 451-52 of 1994-D.

V.R. Reddy, Additional Solicitor General, V.K. Verma, M. Gauri Shankar Murthy for the Appellant.

Soli J. Sorabjee and Dushyant Dave, Raju Ramachandran, N. Mullik, Manoj Prasad, C.K. Shastri, Kailash Vasdev for the Respondents.

The following Order of the Court was delivered :

Heard Counsel for both the parties at this stage itself.

The question is whether wooden furniture by itself can be treated as "handicrafts" within the meaning of Notification No. 76 of 1986 dated February 10, 1986 ? It must be said straightaway that furniture as such does not qualify as handicrafts. It may be characterised as "handicrafts" if the following tests are satisfied :

"(1) It must be *predominantly* made by hand. It does not matter if some machinery is also used in the process.

(2) 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 a substantial nature and not a mere pretence."

Whenever the above question arises, the authorities shall examine the matter from the above stand-point and pass orders accordingly.

The above principles shall apply to all pending matters and to all matters arising hereinafter. This direction we are making because it appears that the view taken by the Tribunal in the order under appeal - which is clearly not in accordance with the test/principles laid down by us herein - appears to have been followed by the Tribunal since 1989 at least. The cases concerned herein shall not be re-opened in view of the above principles.

The appeals are disposed of with the above directions. No costs.

A copy of this Order may be sent to the Registrar, CEGAT and he may circulate the same to all the Benches.

Appeals disposed of.