

Background note

Formulating a New Definition of Handicrafts

1 Background

Due to the lack of any standardised and universally acceptable definition for "Handicraft", exporters face issues relating to classification of goods and craft articles with the government authorities for payment of duties and taxes. The issue has been long pending with the industry and a detailed study was conducted for devising a new handicrafts' definition. The proposed definition aims to address the ambiguities arising in the absence of a standardised definition.

2 Need for establishing new and common definition

The issue of the definition of the term "Handicrafts" from last few years is posing various difficulties and constraints among the handicraft exporters and has become an impediment in the export promotion measures.

The problem started with the judgment of Hon'ble Supreme Court of India in Louis Shoppe case. It was held that a product or item may be characterised as "handicrafts" if the following tests were satisfied:

- (a) It must be predominantly made by hand. It does not matter if some machinery is also used in the process.
- (b) 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.

Since then, the various Regulatory Authorities such as Customs, ASI etc. always suspect the handicraft products and use their discretionary powers or refer the matter to the Classification Committees which have been set up at various field formations by Development Commissioner (Handicrafts) to overcome and ease the problems for the time being. The matter has been brought to the notice of the Highest Authorities to solve or ease out the issue on the permanent basis, but nothing can be done due to the constraint of the Judgment of the Apex Court of India.

The handicraft exporters are facing two major problems; admissibility of the duty drawback and other the delays and embarrassment due to the attitude of the field formations of the Customs Authorities. The Customs department issued a number of circulars to address the issue related to the inclusion of items, which the Custom department had reasons to believe were handicrafts, to provide the necessary relief that the Government wishes to pass on to the handicrafts industry.

However, despite different directions and circulars from the Custom Authorities, the issue has never been able to resolve in totality. The handicraft exporters only get timely relief and only few

problems are solved satisfactorily. The handicraft sector as whole has been badly affected by this issue.

The practice of issuing circulars at different intervals to resolve individual issues related to handicrafts is not a sustainable solution and hence different delegations have met senior Government officials and Hon'ble Minister of Textiles, Government of India (GoI) and Hon'ble Minister of Finance, GoI to effectively address this issue. Discussions were held with the Development Commissioner (Handicrafts) and the delegation of handicraft exporters and proposal for devising a comprehensive definition of handicraft was mooted. The objective is to validate the proposed definition and incorporate the suggested changes, if any, in the definition.

This note is presented for inviting comments from the interested groups from the general public. The aim for proposing this is to assist in appropriate classification of products as "handicrafts" and thereby removing all the existing ambiguities.

3 New definition proposed

While formulating the proposed definition for all practical purposes the inferences are taken into account from ITC Geneva, CBI Netherlands as well as handicrafts as defined in different countries vis-à-vis. interpretation and directions of Hon'ble Supreme Court of India along with other cases and considerations, as defined in above Section.

Inferences and leads have also been taken from the different manufacturing processes prevalent in the handicrafts sector across the country at different clusters.

Leads have also been taken from the commercial/ trade classification prevalent and used widely for more than 850 handicraft categories.

The proposed definition of handicrafts is as follows:

“Item or product produced through skills that are manual, with or without mechanical or electrical or other processes, which appeals to the eye, due to the characteristics of being artistic or aesthetic or creative or ethnic or being representative of cultural or religious or social symbols or practices, whether traditional or contemporary. These items or products may or may not have a functional utility and can be used as a decorative item or gift”.

