

**Circular No. 7/2011-Customs**

**F.No. 609/119/2010-DBK**  
**Government of India**  
**Ministry of Finance**  
**Department of Revenue**

New Delhi, the 18<sup>th</sup> January, 2011

To,

All Chief Commissioners of Customs / Customs & Central Excise,  
All Directors General of CBEC/CDR, CESTAT,  
All Commissioners of Customs / Customs & Central Excise,

Sir/Madam,

**Subject: - Export of handicraft and artware items under Drawback Scheme – reg.**

Sir,

I am directed to invite your attention to the Board circular No.03/2010-Cus dated 12.02.2010 regarding classification of handicraft and artware items in the Drawback Schedule. The circular clarified that the assessing authorities should normally accept certificates issued by the Development Commissioner (Handicrafts) / EPCH certifying the goods as artware/ handicrafts. A decision to reject a certificate issued by the Development Commissioner (Handicrafts)/ EPCH should be taken only with approval of the Commissioner of Customs / Central Excise and after discussions with the certificate issuing authority. Exports should not, in the mean time, be held up. The circular also clarified that consignments of artware and handicrafts should be classified in the Drawback Schedule in accordance with condition (3) of the Drawback Schedule which provides that all artware or handicraft items shall be classified under the heading of artware or handicrafts (of constituent material) as mentioned in the relevant chapters of the Drawback Schedule irrespective of their classification under the HSN.

2. It has been reported by Moradabad Handicrafts Exporters Association and Export Promotion Council for handicrafts (EPCH) that following issue of this circular, certificate from EPCH / Development Commissioner (Handicrafts) is being asked for each and every consignment of artware and handicrafts. Consignments not having such certificates are necessarily examined. Further, at some field formations certification by EPCH / Development Commissioner (Handicrafts) on invoices is not accepted. Certification only on the body of the shipping bill is insisted citing the Board circular No. 56/99-Cus dated 26.08.1999.

3. It has also been represented that lamps/lanterns predominantly made of glass are not considered as handicrafts and exporters are not allowed to use the word 'handicraft' in the description while filing shipping bills for these items even when certificates of Development Commissioner (Handicrafts) certifying these goods as handicraft are submitted. As a result, exporters are deprived of the benefit of FPS which is available only on artware/handicrafts. Further, at some field formations, in case of artware or handicraft item made of more than one constituent material, drawback is either allowed on constituent materials separately or is allowed only on one of the constituent materials.

4. The matter has been examined. It is hereby clarified that certificate from EPCH/ Development Commissioner (Handicrafts) should not be asked for all consignments of Handicrafts/artware as a routine but only in cases of doubt. Certification of EPCH/ Development Commissioner (Handicrafts) on invoices may be accepted notwithstanding anything contained in the Board circular No. 56/99-Cus dated 26.08.1999. Certification on photographs may also be accepted and the exporter, if required, may use the certified photograph for subsequent export consignments of that product. Further, every consignment which does not have Development Commissioner (Handicrafts)/EPCH certificate, need not be examined. The Board's circular No.6/2002-

Cus dated 23.01.2002 which prescribes examination norms for exports under drawback and other EP schemes should be applied to artware/handicraft consignments also. Normally, packages/shipments selected by the EDI system for examination only should be examined unless there is some intelligence suggesting fraud/misuse. If there is a doubt on such examination about the goods being artware/handicraft, certificate from Development Commissioner (Handicrafts)/ EPCH may be asked for. As clarified by the Board vide circular No. 3/2010-Cus dated 12.02.2010, certificates issued by EPCH/Development Commissioner (Handicrafts) should normally be accepted and a decision to reject them should be taken only with approval of the Commissioner and after discussions with the certificate issuing authority. Exports should not, in the mean time, be held up.

5. It is also advised that as clarified by the Board vide Circular No.3/2010-Cus and as provided in condition (3) of the Drawback Schedule Notification No.84/2010-Cus (N.T.) dated 17.09.2010, alignment of Drawback Schedule with the customs tariff is not applicable to artware / handicraft items. If the export items such as lamps/lanterns are artware/ handicraft items, they should be classified as artware/ handicrafts in the specific headings provided for artware/handicraft items of iron, glass, brass, iron and steel etc. in various chapters of the Drawback Schedule irrespective of their classification in the Customs Tariff / HSN and irrespective of whether there are other headings, covering those products more specifically, in the Drawback Schedule elsewhere. Further, as clarified by the Board vide circular No. 3/2010-Cus dated 12.02.2010, artware or handicraft article made of more than one constituent material should be classified as if it is made of that constituent material which predominates in it by weight. Once classification of such article 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.

6. A suitable public notice for information of the Trade and Standing Order for guidance of the assessing officers and for strict adherence may be issued. Difficulties faced, if any, in implementation of the circular may please be brought to the notice of the Board at an early date.

Kindly acknowledge receipt of this circular.

Yours faithfully,

**(PRAMOD KUMAR)**  
**(TECHNICAL OFFICER)**

**Circular No. 3/2010 - Customs**

**F.No.609/27/2009-DBK**  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise & Custom  
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New Delhi, 12th February, 2010

To

All Chief Commissioners of Customs  
All Chief Commissioners of Customs & Central Excise  
All Commissioners of Customs /Customs (Preventive)/Customs & Central Excise/Central Excise  
DG, CEIB, New Delhi  
DGRI/DGCEI/DG (Systems & Data Management) DG (Export Promotion)/DGI/DG, NACEN/DG Audit  
Chief Departmental Representative, Customs, Excise & Service Tax Appellate Tribunal, New Delhi.

Sir/Madam,

**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. I am directed to state that 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) CXLT (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.

9. A suitable Public Notice for information of the Trade and Standing Order for guidance of the staff may be issued. Difficulties faced, if any, in implementation of the changes may be brought to the notice of the Board at once.

Kindly acknowledge receipt of this Circular.

Yours faithfully,

**(PRAMOD KUMAR)**  
**Technical Officer (Drawback)**