(1996) 03 SC CK 0031

In the Supreme Court Of India

Case No : Civil Appeal No''s. 9217-18 of 1995

Collector of Central Excise, New Delhi — APPELLANT

Vs

Louis Shoppe and Another — RESPONDENT

Date of Decision : 12-03-1996

Acts Referred:

Central Excise Rules, 1944 — Rule 8(1)
Central Excises and Salt Act, 1944 — Section 5A

Citation : (1996) 3 AD 117 : (1996) 54 ECC 109 : (1996) 65 ECR 246 : (1996) 83 ELT 13 : (1996) 6 JT 161 : (1996) 2 SCALE 829 : (1996) 3 SCC 445 : (1996) 3 SCR 293 : (1996) 102 STC 129

Hon'ble Judges : S. Saghir Ahmad, J;B.P. Jeevan Reddy, J

Bench : Division Bench

Advocate : V.R. Reddy, Additional Solicitor General, V.K. Verma and M. Gowrisankaramurty, for the Appellant; Soli J. Sorabjee and Dushyan Dave, Senior Advs., Raju Ramachandran, N. Mullik, Manoj Prasad, C.K. Shastri and Kailash Vasdev, for the Respondent

Final Decision : Disposed Of

Judgement

1. Heard Counsel for both the parties at this stage itself.

2. 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 satisified:

(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.

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

4. 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.

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

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

