IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No. C/70427/2018-CU[DB]

(Arising out of Order-in-Appeal No. NOI-CUSTM-000-APP-0053 to 0054-17-18 dated 29/05/2017 passed by Commissioner (Appeals), Customs & Central Excise, Noida)

M/s Arien Metals Pvt. Ltd. **Appellant**

Vs.

Commissioner of Customs, Noida **Respondent**

Appearance:

Shri Amit Mahajan (Adv.), Shri Parveen Kumar Bansal (Adv.) &
Shri Ashish Bansal (Adv.) for Appellants
Shri Pawan Kumar Singh (Supdt.) AR for Respondent

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 01/08/2018
Date of Decision : 01/08/2018

FINAL ORDER NO. - **71769/2018**

Per: Archana Wadhwa

After hearing both the sides, we find that the dispute in the present appeal relates to the benefit of drawback claimed by the assessee on the exports of furniture items, which they claimed are handicrafts items. The Lower Authorities have denied the said benefit on the ground that the goods exported by the appellant were not handicrafts but furniture.

2. Learned advocate appearing for the appellant has drawn our attention to the appellant's registration with the 'Export Promotion Council for Handicrafts', wherein the goods has been described by them as handicrafts and the said certificate stand issued to them on 03/08/2004. The same was subsequently renewed on 22/01/2015 upto the period 21/01/2020.

While dealing with the said certificate Commissioner (Appeals) has observed in his impugned order that the period involved in the present appeal is from 01/04/2014 to 19/11/2014, whereas the appellant was registered with EPCH only on 22/01/2015. By referring to the certificate of registration produced on record, learned advocate submits that the registration was effective from 03/08/2004 and 22/01/2015 was the date of renewal of the same. The Appellate Authority has wrongly concluded that the appellants were registered with effect from 22/01/2015.

3. On going through the said certificate, we find that admittedly the date of issuance of certificate is 03/08/2004 and the same was renewed on 22/01/2015 for the period upto 21/01/2020. As such the observation made by the Commissioner (Appeals) are factually

incorrect inasmuch as he has adopted the date of renewal as the date of issuance. As such, it has to be held that the appellant was registered with the said Council for Handicrafts with effect from 03/08/2004 thus covering the entire period involved in the present appeal.

4. As regards the fact as to whether the export made by the appellants were Handicraft or not, learned counsel contends that there were total 25 export consignments, out of which 24 consignments have been allowed to be exported by treating the same as handicrafts. It is only at the time export of 25th consignments that the Revenue raised the objection. He, however clarifies that the drawback stand denied in respect of all the 25 consignments.

5. As regards the merits of the case, learned advocate submits that the Lower Authorities have held the goods to be simple furniture by visual examination of the same. There is no expert opinion available on record to show that the goods exported by the appellants were simple furniture and not handicrafts. On the other hand, learned advocate draws our attention to the certificate given by 'Export Promotion Council for Handicrafts',

certifying that the goods exported by the appellants were handicrafts. The said certificates are fully co-relatable to the invoices issued by the assessee. As such, he submits that expert body having held the goods to be handicrafts, Revenue exceeded its jurisdiction to hold the same very goods as simple furniture.

6. We note that the identical issue stands considered by the Tribunal in the case of Commissioner of Customs, Jodhpur vs. Art Asia Sankalp International 2015 (316) E.L.T. 283 (Tri.-Del.). While dealing with same, the Tribunal observed "The Revenue has gone by the examination of the furniture by the Customs Officers, who cannot be held to be experts in the field. There is no expert opinion produced by the Customs Authorities. On the other hand, the fact that the appellant is registered with the 'Export Promotion Council for Handicrafts', is indicative of the fact that furniture manufactured by the appellant is Handicrafts".

By applying the ratio of the above decision, which is based on precedent decisions of the Hon'ble Supreme Court as also of the Tribunal, and in view of the fact that the appellant is not only registered with the 'Export Promotion Council for Handicrafts' but has also produced certificates from them, certifying that the goods exported by the appellant were Handicrafts, it has to be held that the appellant exported handicraft items. We, therefore, accordingly hold that the appellants are entitled to drawback benefits by treating the exported goods as Handicrafts.

7. In view of the above, the impugned orders are set aside and appeal is allowed with consequential relief to appellant, if any.

(Dictated & Pronounced in Court)

Sd/-	**Sd/-**
(Anil G. Shakkarwar)	**(Archana Wadhwa)**
Member (Technical)	**Member (Judicial)**

Lks