# M/S. Iffco Ltd. Vs. Cce, Lucknow

M/S. Iffco Ltd. Vs. Cce, Lucknow

**SooperKanoon Citation** : sooperkanoon.com/20419

**Court** : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Jan-16-2001

**Appellant** : M/S. Iffco Ltd.

**Respondent** : Cce, Lucknow

**Judgement** :

1. Appellants are manufacturers of fertilizer. They use raw naphtha for the manufacture of fertilizer. Raw naphtha intended for use in the manufacture of fertilizer and ammonia enjoyed a lower rate of duty under Notification 75/84. Appellants were availing themselves of this benefit. The present dispute is on the basis that part of the raw naphtha received on payment of duty at concessional rate has not been used by them in the manufacture of fertilizer. Such use has been identified as in the generation of electricity used in the residential complex, workshop of the factory, Effluent Treatment Plant and in the drawing of water from borewells. Learned Consultant of the appellant submits that no duty demand could be made in respect of use other than the electricity used in the residential complex in view of the decision of the Supreme Court in the appellants own case 1996 (86) ELT 177 (SC).

Learned Departmental Representative submits that this Tribunal in the case of Tata Chemicals Ltd. Final Order Nos.591-591/98-C dated 7.8.98 had held against the grant of concessional duty in the case of raw naphtha used in the generation of electricity which was used in the residential complex of the Plant.

2. In the appellants' own case the Apex Court has held that Raw Naphtha used to produce ammonia which, in turn, is used in Off-site plants namely water treatment plant, steam generation plant, inert gas generation plant and effluent treatment plant would be eligible for exemption. That order covers the various kinds of use in dispute in the present case, namely, power consumption in the workshop, effluent treatment plant and for drawing water from borewell. Therefore, the demand attributable to raw naphtha utilised in the generation of power used for these purposes cannot be sustained at all. We are informed that demand in respect of raw naphtha used in the generation of power supplied to residential complex works out to only Rs. 1,03,881.09. This demand alone may not be covered by the judgement of the Apex Court.

Learned Consultant for the appellant rightly and fairly conceded that they are willing to pay the duty demand on this score because such use would be outside the purview of the Supreme Court decision.

3. In view of what has been stated above, the duty demand of Rs. 1,03,881.09 is confirmed and all other duty demands and penalties are set aside. Appeals are disposed of with consequential relief to the appellants in these terms.