

**Laxmi Processors Vs. Commissioner of Central Excise,**

**Laxmi Processors Vs. Commissioner of Central Excise,**

**SooperKanoon Citation : [sooperkanoon.com/26670](http://sooperkanoon.com/26670)**

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

**Decided On : Nov-09-2001**

**Appellant : Laxmi Processors**

**Respondent : Commissioner of Central Excise,**

**Judgement :**

1. We waive predeposit of duty to Rs. 11,97,215/- which arises as a result of inclusion of length of galleries in the Hot Air Stenter of the Appellants who are processors of manmade fabrics with the aid of Hot Air Stenter and penalty of amount equal to duty imposed by the Adjudicating Authority and proceed to dispose of the appeal itself since the issue in dispute stands settled by the Larger Bench of the Tribunal in the case of Sangam Processors Bhilwar Ltd. v. CCE, Jaipur reputed in [2001 (127) ELT 679 (Tri.-LB)].

2. Levy of Excise duty of processors (like the Appellants) is on the basis of capacity of production determined in terms of Hot Air Stenter Independent Textile Processors Annual Capacity Determination Rule, 1998. The question to be decided is whether the length of galleries has to be included in the length of the Chambers of the Stenters for the purpose of deterring the Annual Capacity of Production. The Larger Bench in the case cited (supra) has held that the length of galleries has to be excluded from the length of Chambers of Stenters. Following the ratio of the above order, we set aside the impugned order and allowed the appeal with consequential relief.