**Cce Vs. Apcotex Lattices Ltd.**

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**SooperKanoon Citation** : sooperkanoon.com/34126

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

**Decided On :** Feb-12-2004

**Reported in** : (2004)(115)LC155Tri(Mum.)bai

**Judge** : J Balasundaram, A M Moheb

**Appellant** : Cce

**Respondent** : Apcotex Lattices Ltd.

**Judgement** :

1. The Revenue challenges the order of the Commissioner of Central Excise, in so far as it relates to dropping demand of Rs. 40,713/- relating to manufacture and clearance within the factory of M.S.Storage Tanks, M.S. Distillate Collection Vessel, Intermediate Mixed Solution Tank, SS-304 Vessel, T.S. Vessel, holding that these goods were eligible to exemption under Notification No. 67/95-CE dated 16.3.1995. These goods were held to be satisfy the definition of capital goods contained in Rule 57Q of the Central Excise Rules and used for producing or processing of good within the same factory.

According to the Revenue, the above goods are not capital goods as defined in Rule 57Q as they do not have a direct role in processing or producing of excisable goods and are not specifically covered under the specified description/sub-heading under Rule 57Q.2. We have heard both sides. The goods in question are in the nature of storage tanks and vessels. The Tribunal has held in several decisions that such goods satisfy the definition of capital goods. Moreover, it's not disputed that they have nexus production or processing of goods.

The objection is on the ground that they have not a direct nexus. This aspect has been considered by the Larger Bench of the Tribunal in the case of Jawahar Mills wherein the issue was settled in favour of the assessee and the order of the Tribunal has been upheld by the Supreme Court as seen from 2001 (45) RLT 739 : 2001 (97) ECR 541 (SC). We, therefore, hold that the exemption under Notification No.67/95 CE has been rightly extended to the disputed items, uphold the impugned order in so far as it relates to dropping the duty demand on these goods, and dismiss the appeal of the Revenue.