

**SUPREME COURT OF INDIA**

Indian Iron and Steel Co. Ltd.

Vs.

Cess Deputy Collector

C.A.Nos.1300 to 1309 of 1969

(A. N. Ray, C.J.I., M. H. Beg and Jaswant Singh, JJ.)

04.03.1976

**JUDGEMENT**

**RAY, C. J.:-**

1. These appeals by certificate are against the judgment and order dated 17 September, 1968 of the Patna High Court in C.W.J.C. Nos. 833 to 842 of 1968.
2. The only point involved in these appeals is whether the Board of Revenue was correct in stating "The Cess Deputy Collector should take particular care to ensure that only such deductions which are attributable to mining operations are actually allowed, if permissible under Appendix E-C of the Cess Manual."
3. It is common ground that the decision of this Court in *Tata Iron and Steel Co. Ltd. v. State of Bihar*, 1963 Supp (1) SCR 199 = (AIR 1963 SC 577) applied to the parties in these appeals. The

upshot of the decision is that cess is payable by M/s. Indian Iron and Steel Co. Ltd. The only controversy is what deductions are permissible. The decision in the Tata Iron and Steel Co. Ltd. case (supra) shows that where activities other than mere winning the ore are carried on by an assessee with a view to converting the ore into a finished product and there is a transaction of sale of the ultimate product and the profit derived from the working of the mine is imbedded in the final realisation, the profit which accrues to the assessee from the mining operation can be disintegrated and ascertained, and a tax levied thereon. In the aforesaid decision, 1963 Supp (1) SCR 199 at pp. 226 and 227 = (AIR 1963 SC 577 at page 588) this Court has held that on a construction of Secs. 5, 6 and 72 of the Bengal Cess Act, 1880, as amended in Bihar, the cess is payable by the appellant and the manner in which disintegration should take place or the components or items which would have to be taken into account in arriving at 'the annual profit' from the mine for the purpose of being brought to tax under Sections 6 and 72 is left to enquiry by the relevant competent authorities. The observation made by the Board of Revenue that the authority (The Cess Deputy Collector) should take particular care to ensure that only such deductions which are attributable to mining operations are actually allowed as permissible under Appendix E-C of the Cess Manual, is not the correct view to take in regard to assessment of profit for the purpose of payment of tax. Assessment of profit will be made in accordance with law and in the light of the aforesaid decision of this Court.

4. We therefore allow the appeals and direct the parties to pay and bear their own costs.

Appeals allowed.