

**SUPREME COURT OF INDIA**

Messrs Tata Iron and Steel Company Limited

Vs.

Commissioner of Central Excise, Patna

C.A.No.3973 of 2001

(S. R. Babu and G. P. Mathur JJ.)

05.05.2004

**JUDGMENT**

**Rajendra Babu (CJI.), J.**

1. The question raised in this appeal is whether Electric Overhead Traveling (EOT) Cranes are liable to excise duty or not. In the order under appeal, the Tribunal proceeded on the basis that the Revenue's contention that the activity of the appellant in the manufacture and clearance of the complete crane in semi-knocked down condition or is manufacture of crane parts had already been decided by the Patna High Court in the appellant's case having notified that the decision of the Patna High Court is still a good law not having been interfered by this Court till date. And therefore held that the goods in question to the complete cranes falling under Heading 81.26. However, on the question of limitation, the Tribunal held in favour of the appellant. On 9th February, 2000, this Court in Civil Appeal Nos.141466 of 1998 and 102 of 1999 allowed the appeals of Appellants against the decision of the Patna High Court, set aside the orders of the respondents as well as of the High Court and held that no excise duty is payable on the E.O.T. cranes as assembled. In the result, we set aside this part of the order made by the Tribunal and remit the matter to it for fresh examination in the light of the order of this Court.

2. Insofar as the question of limitation and other aspects are concerned, we do not interfere with the order made by the Tribunal. Only to the extent indicated above, the order of the Tribunal is set aside.

3. Appeal allowed accordingly.