

A M/S. TATA IRON AND STEEL CO. LTD.
v.
COMMISSIONER OF CENTRAL EXCISE, PATNA

MAY 5, 2004

B [S. RAJENDRA BABU, CJ., AND G.P. MATHUR, J.]

Central Excise Tariff Act, 1985 :

C *Tariff Heading 81.26—Electric Overhead Travelling Cranes—Liability to excise duty—Tribunal relying on Patna High Court judgment holding the goods as falling under Heading 81.26—Decision of Patna High Court reversed by Supreme Court holding that no excise duty was payable on EOT Cranes—Held, order of Tribunal set aside and matter remitted back to it for fresh decision in the light of the judgment of Supreme Court.*

D **The Customs Excise and Gold (Control) Appellate Tribunal, relying upon a decision of the Patna High Court, held that the Electric Overhead Travelling (EOT) Cranes, manufactured by the appellant were complete cranes falling under Heading 81.26 and as such liable to excise duty. The said decision of the Patna High Court was set aside**
E **by Supreme Court by its judgment dated 9.2.2000*, holding that no excise duty was liable to be paid on EOT cranes.**

Allowing the appeal filed by the assessee, the Court

F **HELD : The order of the Tribunal holding the goods as complete cranes falling under Heading 81.26 and liable to excise duty accordingly, is set aside and matter is remitted to the Tribunal for fresh decision in the light of the order of this Court. [107-E-F]**

G **M/s. Tata Iron & Steel Co. Ltd. v. Commissioner of Central Excise, Patna (Civil Appeal No. 782 of 1987 decided by Supreme Court on 9.2.2000 alongwith Civil Appeal Nos. 1466 of 1998 and 102 of 1999), relied on.*

H CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3973 of 2001.

From the Judgment and Order dated 8.12.2000 of the Central Excise, Customs and Gold (Control) Appellate Tribunal Calcutta in F.O.No. A-2020/Cal/2000 in A. No. E/2040 of 1991-B. A

Ashok H. Desai, Rajan Narain, Ajay Aggarwal and Ms. Sonu Bhatnagar, for the Appellant. B

Ms. Vibha Datta Makhija for the Respondent.

The Judgment of the Court was delivered by

RAJENDRA BABU, CJ. : The question raised in this appeal is whether Electric Overhead Travelling (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. 1466 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. C
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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. G

Appeal allowed accordingly.

R.P.

Appeal allowed.