

LA COMPAÑA GENERAL DE TABACOS DE FILIPINAS, PLAINTIFF AND APPELLEE, VS. THE UNITED STATES, DEFENDANT AND APPELLANT.*G. R. No. L-2871. August 29, 1907*

Ponente: JOHNSON, J.

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The plaintiff imported into the Philippine Islands 550 kilos net of aniseed oil, and declared the same under subdivision (a) of paragraph 105 of Act No. 230[1] of the tariff laws of the Philippine Islands. The Collector of Customs assessed said aniseed oil under paragraph 105. Later the plaintiff protested against assessment and claimed that said oil should have been assessed under paragraph 327 of said law. Said paragraph 105 provides for a duty upon "perfumery," and subdivision (a) provides that "the duty upon essential oils, extracts, and products used in the preparation of perfumery, including musk," shall be \$5 per kilo, net weight. Paragraph 327 provides for a duty upon flavoring extracts at the rate of 25 cents per kilo, net weight. The Collector of Customs denied the protest of the plaintiff upon the ground that "oil of anise is an essential or volatile oil and is imported into the Islands for the purpose of flavoring certain liquors" (U. S. Dispensary, 18th edition, p. 923; Perry's Chemistry of Essential Oils, p. 240), and held that such oil is usually and commonly used in the preparation of perfumery, and, therefore, should be classified under subdivision (a) of said paragraph 105.

From this decision of the Collector of Customs the plaintiff appealed to the Court of Customs Appeals. The Court of Customs Appeals, after hearing the arguments of the respective parties, reversed the decision of the Collector of Customs, and held that the said aniseed oil had been used by the plaintiff in the manufacture of liquors, and not in the preparation of perfumery. From this decision the Collector of Customs appealed to this court.

The lower court found, and the fact is not disputed here, that the plaintiff used said imported article in the preparation of liquors, and not in the preparation of perfumery. But the Collector of Customs held, in effect, that it was of no importance for what particular purpose the plaintiff used the article imported; that it was his duty to collect the duties imposed by paragraph 105, based upon the ground of its general use, holding at the same time that the general use of aniseed oil was in the preparation of perfumery, and that, therefore, his assessment was in accordance with law.

The question presented to this court is whether an article imported into the Philippine Islands shall be assessed in accordance with the use which the importer makes of said article or whether it shall be assessed in accordance with the general purpose for which such imported article is used. For example, suppose A imports into the Philippine Islands aniseed oil and uses the same in the manufacture of liquors (in other words, uses it as a flavoring extract simply), while B imports aniseed oil and uses the same in the manufacture of perfumery. Shall A, because he Uses the aniseed oil as a flavoring extract, be subjected to a duty under one provision of the law (in this case under paragraph 327 at a rate of 25 cents per kilo, net weight) while B, who uses the same article for its general purpose to wit, for the manufacture of perfumery shall be subjected to payment of a duty under subdivision (a) of paragraph 105, at the rate of \$5 per kilo, net weight? We are of the opinion, and so hold, that the importer of an article can not change the rate of duty upon that particular article by using said article for some

purpose other than its general use. If the contrary doctrine should be enforced each importer might be required to pay a different duty upon the same class of goods.

The general purpose for which an article is used must govern the assessment of duty; any other rule would lead to confusion and injustice. It is the general use to which articles are chiefly adapted and for which they are chiefly used that determine their character within the meaning of the tariff laws. It is the predominating use to which articles are generally applied or used that determines their character for the purpose of fixing the duty, and not the specific or special use which any particular importer may make of the articles imported; (*Hartranft vs. Langfeld*, 125 U. S., 128.) However, in the present case there was no evidence adduced during the trial of the cause in the lower court to show what was the general purpose for which aniseed oil was used. The lower court in its decision stated:

"The trial disclosed that the essence of anise, subject of this appeal, has been used in the manufacture of liquors known as 'anisado,' 'anisado de Carabanchel,' and 'anisado de Mallorca,' as claimed by the plaintiff company in their letter to the Collector of Customs protesting against the classification of the essence in question."

No evidence having been introduced to show the general purpose for which aniseed oil is used, and it having been clearly proven that in this particular case the aniseed oil was imported as a flavoring extract, we are of the opinion, and so hold, that the judgment of the lower court was sustained by the evidence and should be affirmed. The cause is hereby ordered to be remanded to the Court of First Instance of Manila, with direction that a judgment be entered in accordance with this conclusion. So ordered.

Arellano, C. J., Torres, Willard, and Tracey, JJ., concur.

[1] I Pub. laws, 581.

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