

THE MANILA RAILROAD COMPANY, PLAINTIFF AND APPELLEE, VS. THE INSULAR COLLECTOR OF CUSTOMS, DEFENDANT AND APPELLANT.

G.R. No. 10240, November 20, 1915

Ponente: JOHNSON, J.

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JOHNSON, J.:

It appears from the record that some time prior to the 17th of January, 1914, the plaintiff imported into the Philippine Islands 17,498 kilos of "brake blocks." Said brake blocks were assessed for duty by the Insular Collector of Customs under subparagraph (b) of paragraph 26 of the Philippine Tariff Act of 1909, at 75 cents per 100 kilos.

Against said assessment the plaintiff duly protested. The protest was overruled. From the ruling of the Collector of Customs on said protest, the plaintiff appealed to the Court of First Instance. The decision of the Court of First Instance fully explains the questions presented by the parties.

The Court of First Instance, after hearing the respective parties, overruled the Collector of Customs, and directed that said brake blocks should be assessed for duty in accordance with subparagraph (a) of paragraph 31 of the Tariff Act of 1909, instead of subparagraph (b) of paragraph 26 of said law. The decision of the Court of First Instance is as follows:

"This is an appeal from the ruling of the Insular Collector of Customs, classifying cast-iron brake shoes under paragraph 26 (b) of the Tariff Act of 1909, instead of under section [paragraph] 31 (a) of the same Act.

"Paragraph 26 reads:

" '26. Articles of cast iron, painted or not, but not otherwise coated or ornamented, neither polished nor turned, gross weight.

" ' (a) Bars, beams, plates, grates for furnaces, columns and pipes, one hundred kilos, thirty-five cents.

" '(b) Other, one hundred kilos, seventy-five cents.'

"Paragraph 31 (a) provides as follows:

" '31. Wrought iron or steel, in pieces, finished, gross weight:

" ' (a) Wheels weighing each more than one hundred kilos, axles, springs, brake shoes, drawbars, brake beams, bumpers, couplings, lubricating boxes, and similar articles for railways and tramways, one hundred kilos, forty-five cents.'

"At first glance it may seem as if the Collector's ruling is correct and that brake shoes under the heading 'Wrought iron and steel' must necessarily mean brake shoes of wrought iron or steel, and can not include brake shoes of cast iron. An examination of the authorities discloses however that in the construction of the various Tariff Acts eo

nomine designations have uniformly been held to prevail over general classifications. (Treasury Decision No. 33884 and authorities there, cited.) Furthermore, in enacting the Tariff Act of 1909 it does not appear to have been the intent of Congress to make a hard and fast classification on the basis of the constituent material. For instance, paragraph 45 under the heading 'Wrought iron and steel' reads:

" '45, Manufactures not otherwise provided for, in which wrought iron or steels is the component material of chief value:

" ' (a) Plain, painted, varnished; or japanned, or covered or coated with lead, tin, or zinc, fifteen per centum ad valorem.

" ' (b) Other (except those covered or coated with gold or silver), twenty per centum ad valorem.'

"The undisputed evidence in the present case shows that there is no such thing known to the trade as wrought-iron or steel brake shoes and that such a brake shoe would, in fact, be physically impracticable. It seems fairly evident that paragraph 31 (a) of the Tariff Act embraces the entire running gear of railway cars including brake shoes, whether of wrought iron or steel or not. (In this connection see *Hollender vs. Magone*, 149 U. S., 586.)

"Wherefore the ruling of the Insular Collector of Customs is hereby reversed, and it is ordered that a reliquidation of the merchandise in question be had under paragraph 31 (a) of the Tariff Act of 1909. So ordered."

From that decision the defendant appealed to this court. The only error assigned is that the lower court committed an error in overruling the decision of the Insular Collector of Customs.

The only question presented by the present appeal is whether or not "cast-iron brake blocks" or "cast-iron brake shoes" should be classified under paragraph 26 (b) of group 2 of the Tariff Law of 1909, or under paragraph 31 (a) of group 3 of the same law.

For the purposes of fixing the tariff on imported merchandise, the Act of Congress of August 5, 1909, known as "The Tariff Law of the Philippine Islands" (Public Laws of the Philippine Islands, vol. 7, page 367), is divided first, into classes, and second, each class is then divided into groups. It is not denied that the brake shoes in question fall under one of the groups of class 3 of section 8 of said law. Said class 3 includes "metals, and manufactures thereof."

Group 1 covers gold, silver, platinum; alloys thereof; gold and silver plated articles.

Group 2 covers cast-iron.

Group 3 covers wrought iron and steel.

Paragraph 26 (b), quoted above in the decision of the lower court, covers, after naming certain articles of castiron, "other articles of cast iron"; while paragraph 31 (a) covers a number of articles, including "brake shoes of wrought iron or steel, in pieces, finished."

From the above quoted provisions of said Tariff Law, the question is whether or not "cast-iron brake shoes," unfinished and not ready for use until something additional is done to them, shall be admitted or classified in accordance with paragraph 26 (b), or whether they shall be classified and admitted under paragraph 31 (a) as "brake shoes, of wrought iron or steel, in pieces, finished"

The appellee argues that the doctrine of *eo nomine* should be applied and that the "cast-iron brake shoes" should be admitted under the head of "wrought iron or steel brake shoes," simply because the name of the article "brake shoes" is found under that head. It is true that nearly all of the articles, and perhaps all, that are mentioned under paragraph 31 (a) are used by railways and tramways. The brake shoes in question are used by railways. It is also

admitted and not denied that the brake shoes in question are of cast iron and are not wrought iron or steel. Suppose, for example, that the article in question was made of rubber, instead of either cast iron or wrought iron, and is denominated a "brake shoe," would then the appellee insist that it should be classified under paragraph 31 (a) simply because it is a "brake shoe"?

Suppose, for example, the Tariff Law, as it does, provided for duty on silverware and goldware, and the importer should bring in a ware made of silver, which particular ware is not specifically described in any of the paragraphs providing for duty upon silverware, but the particular ware, by a specific name, is enumerated in one of the paragraphs providing for duty upon goldware. Would the Collector of Customs be justified in charging the duty provided for in a particular paragraph for goldware, rather than silverware, simply because there happened to be in the group of goldware, a ware or article bearing the particular name of the article in question? In other words, would the Collector of Customs be permitted to classify silverware as goldware, under the doctrine of *eo nomine*? Would it not be the wiser rule to classify the particular article under some of the general or special heads to which it necessarily belongs, by virtue of the material of which it is made, rather than to classify it under the head which includes material of an entirely different character?

These questions indicate the difficulty in the application of the rule of *eo nomine*. We are not of the opinion that rubber shoes, for example, should be classified with wrought iron or steel, under the doctrine of *eo nomine*; neither are we of the opinion that "brake shoes of cast iron" should be classified under the head of "wrought iron or steel, in pieces, finished," when there is a special group under which said "brake shoes" are classified by the character of the material used, even though not specially named.

Paragraph 26 (b) provides for a duty upon all articles of cast iron other than those specifically named in paragraph 26 (a). The "brake shoe" in question being of "cast iron," and not "wrought iron or steel," we are of the opinion and so decide, that the Collector of Customs properly classified them. Therefore the judgment of the lower court is hereby reversed, and the conclusion of the Collector of Customs is hereby affirmed; and without any finding as to costs, it is so ordered.

Arellano, C. J., Torres, Moreland, and Araullo, JJ., concur.

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