

CRUZ, MERCHANT & CO., PLAINTIFF AND APPELLEE, VS. THE INSULAR COLLECTOR OF CUSTOMS, DEFENDANT AND APPELLANT.

G.R. No. 21140. March 25, 1924

Ponente: AVANCEÑA, J.

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AVANCEÑA, J.:

On October 20, 1922, the plaintiff Cruz, Merchant & Co., Inc., filed a protest with the Insular Collector of Customs against the collection of P1,000 as customs duty upon 25,000 empty sacks consigned to the plaintiff from San Francisco, California, United States. The protest was overruled and the ruling of the Insular Collector of Customs taken on appeal to the Court of First Instance for its review, and said court, sustaining the legality of the protest, sentenced the Insular Collector of Customs to return to plaintiff the sum of P1,000. From this decision the present appeal was taken.

The parties have entered into the following stipulation of facts:

"That the jute sacks upon which a customs duty was collected had already been imported in the Philippine Islands, the corresponding import duty having been paid upon their entry.

"That these same sacks were sent to America as coverings for copra.

"That these same sacks were returned empty to Manila from San Francisco, and again were subsequently sent with copra to the same point of San Francisco."

It must be added that the jute sacks above-mentioned were manufactured abroad and that when they were landed here they were empty and came upon a bill of lading. According to section 8 of the Philippine Tariff Law of 1909 (Act of Congress of the United States), articles of foreign produce or manufacture shall be dutiable upon each importation even though they may have previously been exported from the Philippine Islands. Articles subject to the payment of duties, which are imported and then exported, shall be subject to the payment of duties upon their subsequent reimportation.

In the United States the following precedents were established upon the matter:

"A reimportation of exported merchandise is ordinarily considered, for customs purposes, as new importation and is dutiable accordingly." (Vol. II, T. D. No. 21504, p. 255, decided August 15, 1899.)

"A reimportation of merchandise is, in general, to be treated as an original importation for tariff purposes." (Vol. III, T. D. No. 22648, p. 984, decided November 30, 1899.)

"It having been settled that even when merchandise of foreign origin is reimported into the United States, it should be treated as an original importation." (Vol. 35, T. D., p. 302, July, 1918.)

"Foreign goods once lawfully admitted into the United States, if reexported or voluntarily placed within the limits of a foreign jurisdiction, lose the character imparted to them by such admission, and if reimported into the United States, are regarded as new importations, subject to the laws governing imported merchandise." (1

Deady, 62; 23 Fed. Cas., 840; T. D., No. 25768; November 14, 1904.)

The plaintiff invokes section 11, paragraph 351, of the said Tariff Law which provides that there are exempted from duties upon their importation into the Philippine Islands * * * coverings and holdings of articles, goods, wares, and merchandise. This provision, however, refers to coverings and holdings used as such at the time of being imported, and is not applicable to the jute sacks in question, which were imported empty and sent upon a bill of lading.

The plaintiff invokes the decision of this court in the case of the Visayan Refining Co. vs. Insular Collector of Customs (R. G. No. 18377).[1] But this decision is not applicable also. In that case, when the drums were reimported they came actually containing oil and had for this reason to be considered as holdings within the meaning of the exception established in section 11 of the Tariff Law.

The judgment appealed from is revoked, the tax collected by the defendant Insular Collector of Customs upon the 25,000 jute sacks held legal, and the defendant is absolved from the complaint without special pronouncement as to costs. So ordered.

Araullo, C. J., Street, Malcolm, Ostrand, Johns, and Romualdez, JJ., concur.

Judgment reversed.

[1] Promulgated September 4, 1922, not reported.

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