

TEODORO R. YANGCO, PETITIONER AND APPELLEE, VS. VICENTE ALDANESE, INSULAR COLLECTOR OF CUSTOMS, RESPONDENT AND APPELLANT.*G.R. No. 27491, December 31, 1927*

Ponente: AVANCEÑA, C.J.

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The petitioner prays that paragraph 3 of Customs Administrative Order No. 178 be declared null; that the respondent allow drawbacks on imported fuel used in the propulsion of said petitioner's vessels plying between the port of Manila and various ports of Laguna, Pampanga, Bataan and Cavite; that he liquidate the drawback entries already filed by said petitioner and to certify to the amount of the imported fuel declared in said entries; that he issue the necessary warrants for refund to said petitioner of the amount of the import duties paid by him on the imported fuel for which the drawback entries above-mentioned have been filed, less 1 per cent of said duties; that he allow, liquidate and certify to all the drawback entries filed or to be filed by said petitioner claiming drawbacks on imported fuel used in his vessels engaged in trade between Manila and the various ports of Laguna, Pampanga, Bataan, and Cavite.

The judgment appealed from grants all of the prayer of this petition.

The petitioner is, and has for some time been, engaged in the maintenance and operation of the following motor boats: The Cavite which makes regular trips between Manila and Cavite, Province of Cavite; the Bataan which makes trips between Manila and Bataan with stops at Limay, Orion and Pilar of the Province of Bataan; the Kababayan plying between Manila and Guagua with stops at Batang, Sexmoan and Lubao of the Province of Pampanga, and the Laguna plying between Manila and Binan, Los Banos, Santa Rosa and Paete of the Province of Laguna. For the propulsion of these boats the petitioner has been purchasing large quantities of liquid fuel from the importer, the Asiatic Petroleum Co. (P. I.), Ltd., a corporation duly registered and authorized to do business in the Philippine Islands, on which the regular import duties have been paid to the respondent. The petitioner has filed the proper drawback entries in writing on said fuel for the purpose of obtaining a refund of the import duties collected, less 1 per cent thereof, in accordance with section 21 of the Tariff Law of 1909. The respondent admitted these entries at the beginning and for that purpose ordered that an inspector verify the amount loaded on the petitioner's boats and certify on the back the amount actually loaded.

Later, however, the respondent suspended the services of an inspector for the verification of the fuel loaded on said petitioner's boats, disapproving the claim of refund under paragraph 3 of Customs Administrative Order No. 178.

Section 21 of the Act of Congress of 1909 known as the Philippine Tariff Act of 1909, provides:

"Sec. 21. That on all fuel imported into the Philippine Islands which is afterwards used for the propulsion of vessels engaged in trade with foreign countries, or between ports of the United States and the Philippine Islands or in the Philippine coastwise trade, a refund shall be allowed equal to the duty imposed by law upon

such fuel? less one per centum thereof, which shall be paid under such rules and regulations as may be prescribed by the Insular Collector of Customs."

Paragraph 3 of Customs Administrative Order No. 178, issued in connection with said Act of Congress, reads:

"PAR. III. Drawbacks will be allowed only on account of imported fuel, upon which the duty has been paid, used in the propulsion of vessels engaged in trade with foreign countries or between ports of the United States and the Philippine Islands or in the Philippine coastwise trade. Vessels engaged in the bay and river business, holding either a license of that class or a license to engage in the general coastwise trade of the Philippine Islands, will not be entitled to drawback on account of fuel used in their propulsion."

The respondent alleges that the petitioner is not entitled to the refund claimed because the boats referred to herein are engaged in bay and river trade and not in coastwise trade as provided in the Act of Congress. The question, then, involved in these proceedings is whether or not the boats engaged in the coastwise trade referred to in said Act of Congress includes those known as bay and river boats in our laws.

"Coastwise trade" has a definite meaning in the Acts of Congress as construed by the courts of the United States.

It is used in contradistinction to foreign trade and trade between ports of the United States and foreign ports, meaning domestic trade between ports of the United States. In that sense, it is general and comprehensive, and applied to vessels, it means all vessels engaged in domestic trade between ports of the United States, including those here known as bay and river boats. (*Gibbons vs. Ogden* [9 Wheat.], 1, 214; *North River Steamboat Co. vs. Livingston*, 3 Cow., 713; *City and County of San Francisco vs. California Steam Navigation Company*, 10 Cal., 504; *Belden vs. Chase*, 150 U. S., 674; 37 Law. ed., 1218.)

In this sense, the words "vessels engaged in the coastwise trade in the Philippine Islands." used in said Act of Congress, must have the same general meaning and must include all vessels engaged in trade in the Philippine Islands. The subdivision of bay and river boats made in our laws, for certain purposes, does not justify any other construction. It must be understood that Congress has given the words used in its Act of 1909 the same meaning they have in its legislation as construed by the courts of the United States.

Therefore, paragraph 3 of Customs Administrative Order No. 178 so far as it excludes bay and river boats from the benefit of the refund provided by the Act of Congress of 1909, violates this law and must be declared null. The respondent also alleges that, at all events, the petitioner is not entitled to the refund of the duty paid on all the imported fuel used in the propulsion of his vessels claimed by him, because he has not opportunely filed the proper drawback entries in accordance with the other provision of Customs Order No. 178. But, in regard to a portion of the fuel, it appears from the evidence that he has complied with these instructions. As to the amount to be definitely refunded to the petitioner, the same shall be determined in the liquidation to be ordered made by the court of what the petitioner is entitled to receive as such refund.

The judgment appealed from is affirmed with the costs. So ordered.

Johnson, Street, Malcolm, Villamor, Ostrand, Johns, and Villa-Real, JJ., concur.

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