

CALDER & CO., PLAINTIFF AND APPELLEE, VS. THE UNITED STATES, DEFENDANT AND APPELLANT.*G. R. No. 2836. August 08, 1907*

Ponente: JOHNSON, J.

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The plaintiff, on the 26th day of March, 1903, imported into the Philippine Islands from Singapore, one C. I. centrifugal pump complete, and paid duty under protest upon the same on the 23d day of April, 1903. The Acting Collector of Customs for the Philippine Islands classified said centrifugal pump as "other machinery under subdivision (b) of paragraph 257 of the Tariff Revision Law of 1901, at 20 per cent ad valorem." [1] The importer protested against this classification and contended that the said centrifugal pump should be classified under paragraph 243 of said law, at \$1.50 per 100 kilos. The importer contends that the said centrifugal pump is similar in material and use to a "steam pump" and should, by assimilation under rules 13 and 15 of said law, be classified under paragraph 243 of said law, and protests against the payment of the duty charged by the said Acting Collector of Customs under subdivision (&) of the said paragraph 257.

Upon this protest the said Acting Collector of Customs rendered the following decision :

"The claim in this case is against the classification of a centrifugal pump; as 'other machinery' under subdivision (b) of paragraph 257 of the Tariff Revision Law of 1901, at 20 per cent ad valorem, instead of as a 'steam pump' by assimilation, under paragraph 243 at \$1.50 per 100 kilos, as entered.

"The question thus presented, that of assimilation into a specific enumeration which is followed by an omnium gatherum clause, is the precise point which was decided adversely to the claim of the importers in Tariff Decision Circular No. 369. The rule therein promulgated and followed is the one which has been established by literally hundreds of decisions by the Board of General Appraisers and the various Federal courts in the United States, and it is one which is binding upon this office,

"This office accordingly finds that the centrifugal pump is similar in material and use to a steam pump, but that it is enumerated in general terms of paragraph 257, and that, therefore, rule 15, similitude rule, is inapplicable. The similitude rule can be resorted to only in case of unenumerated articles; it can not be referred to for the purpose of setting aside an enumeration. (See Tariff Decision Circular No. 187, last part.)

"The protest on the ground mentioned above is therefore overruled and denied."

From this decision of the said Acting Collector of Customs the plaintiff appealed to the Court of Customs Appeals. After a consideration of the said cause by the judges of the said Court of Customs Appeals, the following decision was rendered:

"The evidence presented at the trial and the record in the case disclose that the pump in question, while not answering precisely the definition of a 'steam, pump,' yet, it is driven by steam as is a piston pump.

"It is put to the same uses as are those pumps which are precisely 'steam,' and is similar in material. This is stated by the Collector of Customs in his decision on this case.

"Applying rules 13 and 15 of the Tariff Revision Act of 1901, the court finds that the pump in controversy should be assimilated to and pay the same duty as a 'steam pump,' and is properly classified under paragraph 243 of the Tariff Revision Act, enacted September 17, 1901.[1]

"The decision of the Collector of Customs is modified to conform to the foregoing findings,"

From this decision the plaintiff appealed to this court. The Collector of Customs in denying the protest of the plaintiff stated that the centrifugal pump is similar in material and use to a steam pump. The lower court found from the evidence presented at the trial that the pump in question, "while not answering precisely the definition of a steam pump, yet, it is driven by steam, as is a piston, pump. It is put to the same uses as are those pumps which are precisely steam, and is similar in material."

The simple question presented by the appeal is whether or not the centrifugal pump in question should be classified under subdivision (b) of paragraph 257 of the Tariff Revision Law of 1901, at 20 per cent ad valorem, or as a steam pump under paragraph 243, at \$1.50 per 100 kilos.

Tariff laws should not be given a technical or narrow interpretation. In the case of *Elliott vs. Swartwout* (10 Peters, 137, 151, January, 1836) the Supreme Court of the United States said that—

"Laws imposing' duties on importations of goods are intended for practical use and application by men engaged in commerce; and hence it has become a settled rule in the interpretation of statutes of this description to construe the language adopted by the legislature, and particularly in the denomination of articles, according to the commercial understanding of the terms used. (See also *Two Hundred Chests of Tea* [Smith, Claimant], 9 Wheat., 438.)"

In the case of *Arthur vs. Morrison* (96 U.S., 108, October, 1877) the Supreme Court of the United States said:

"The general understanding concurs in this respect with that of the trader and importer and must determine the construction to be given to the language of the statute. Especially should this view prevail as to laws made for the government of the importer. His business is regulated by them; and it is but reasonable that, like the language of marine policies and the terms of the law merchant, supposed to be especially applicable to this class, these laws should be construed as universally understood by the importer and trader. Obsolete words, or those whose meaning is differently understood by the writer and the reader, produce disorder and confusion. Importations from foreign countries are necessarily made with reference to the duties to be paid upon their entry into the ports of this country. If these are not reasonable and uniform, and can not be ascertained, the transaction of business will be impossible. No man can determine whether his venture will enrich him or make him a bankrupt."

Where general terms are used, the terms are to be taken in their ordinary and comprehensive meaning, unless it is shown that they have, in their commercial use, acquired a special and restricted meaning. It is a well-settled doctrine that a designation of an article in a tariff law, or law of commerce, by merchants and importers, when clearly established, determines the construction or interpretation of such revenue law or law of commerce.

By an examination of said paragraph 243, it will be seen that "steam pumps" are mentioned there in general terms and it is impossible to believe that a merchant or importer who should read said paragraph would believe that a steam pump, even that which should be denominated a "centrifugal pump" would be classed under a provision of such law which provides for "other machinery and detached parts," etc.

The lower court found that the pump in question, while designated as a centrifugal pump, was operated by steam and under the general rule with reference to the interpretation of laws of this kind, the importer had a right to believe that the article imported would be classified as a steam pump. The word "centrifugal," as used in the description of the pump, was simply used for the purpose of designating the character or manner of operating, and

did not destroy it as "a steam pump." The lower court applied rules 13 and 15 of said Tariff Revision Act of 1901 for the purpose of classifying the pump in question under paragraph 243 of said law. These said rules are known as the "rules of assimilation."

Rule 13 provides that—

"Articles not enumerated in the tariff shall, for the application of duty, be assimilated to those which they most closely resemble, and shall in the first instance be so classified by the collector of the port of entry into which the articles are brought."

Rule 15 provides that—

"Each and every imported article, not enumerated in this act, which is similar, either in material, quality, texture, or the use to which it may be applied,' to any article enumerated in this act, as chargeable with duty, shall pay the same rate of duty which is levied on the enumerated article which it most closely resembles in any of the particulars before mentioned; and if any non-enumerated article clearly resembles two or more enumerated articles on which different rates of duty are chargeable, there shall be levied upon such non-enumerated article the same rate of duty as is chargeable on the article which it resembles paying the highest rate of duty; and on articles not enumerated, manufactured of two or more materials, the duty shall be assessed at the highest rate at which the same would be chargeable if composed wholly of the component material thereof of chief value; and the words 'component material of chief value, wherever used in this act, shall be held to mean that component material which shall exceed in value any other single component material of the article; and the value of each component material shall be determined by the ascertained value of such material in its condition as found in the article. If two or more rates of duty shall be applicable to any imported article, it shall pay duty at the highest of such rates."

It will be noted that neither of these rules apply when the article is enumerated. In our opinion the article here in question should be classed as an enumerated article- "steam pump." Paragraph 264 of said law provides for a duty upon wagons. Suppose, for example, an importer should Import a wagon which is denominated as a "Studebaker road wagon." Could it be contended that the phrase "Studebaker road" should take the article out of paragraph 264 and place it under some other provision of said law simply for the reason that it was not designate as a "wagon?" The phrase "Studebaker road" in no way changes the article imported. It is simply a method of describing a particular make of wagon. This illustration might he applied to many other provisions of the law in question.

We are of the opinion, for the reasons above stated, that the judgment of the lower court should be affirmed, and without making any finding as to costs in this instance. The lower court now having jurisdiction to wit, the Court of First Instance of Manila is hereby directed to enter judgment in accordance herewith. So ordered.

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

[1] Act No. 230, I Pub. Laws, 581.

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