

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

G.R. No. 30264. March 12, 1929

Ponente: MALCOLM, J.

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MALCOLM, J.:

The question involved in this appeal is the following:

How should dust shields be classified for the purposes of the tariff, under paragraph 141 or under paragraph 197 of section 8 of the Tariff Law of 1909? These paragraphs placed in parallel columns for purposes of comparison read:

"141. Manufactures of wool, not otherwise provided for, forty per centum ad vaten lorem." per centum ad valorem."

"197. Vehicles for use on railways and tramways, and detached parts thereof,

Dust shields are manufactured of wool and hair mixed. The component material of chief value is the wool. They are used by the Manila Railroad Company on all of its railway wagons. The purpose of the dust shield is to cover the axle box in order to protect from dust the oil deposited therein which serves to lubricate the bearings of the wheel. "Dust guard" which is the same as "dust shield," is defined in the work *Car Builders Cyclopedia of American Practice*, 10th ed., 1922, p. 41, as follows: "A thin piece of wood, leather, felt, asbestos or other material inserted in the dust guard chamber at the back of a journal box, and fitting closely around the dust guard bearing of the axle. Its purpose is to exclude dust and to prevent the escape of oil and waste. Sometimes called axle packing or box packing."

Based on these facts, it was the decision of the Insular Collector of Customs that dust shields should be classified as "manufactures of wool, not otherwise provided for." That decision is entitled to our respect. The burden is upon the importer to overcome the presumption of a legal collection of duties by proof that their exaction was unlawful. The question to be decided is not whether the Collector was wrong but whether the importer was right. (*Erhardt vs. Schroeder* [1894], 155 U. S., 124; *Behn, Meyer & Co. vs. Collector of Customs* [1913], 26 Phil., 647.) On the other hand, His Honor, Judge Simplicio del Rosario, took an opposite? view, overruled the decision of the Collector of Customs, and held that dust shields should be classified as "detached parts" of vehicles for use on railways. This impartial finding is also entitled to our respect. It is the general rule in the interpretation of statutes levying taxes or duties not to extend their provisions beyond the clear import of the language used. In every case of doubt, such statutes are construed most strongly against the Government and in favor of the citizen, because burdens are not to be imposed, nor presumed to be imposed, beyond what the statutes expressly and clearly import. (*U. S. vs. Wigglesworth* [1842], 2 Story, 369; *Froehlich & Kuttner vs. Collector of Customs* [1911], 18 Phil., 461.)

There are present two fundamental considerations which guide the way out of the legal dilemma. The first is by

taking into account the purpose of the article and then acknowledging that it is in reality used as a detached part of railway vehicles. The second point is that paragraph 141 is a general provision while paragraph 197 is a special provision. Where there is in the same statute a particular enactment and also a general one which in its most comprehensive sense would include what is embraced in the former, the particular enactment must be operative, and the general enactment must be taken to affect only such cases within its general language as are not within the provisions of the particular enactment (25 R. C. L., p. 1010, citing numerous cases).

We conclude that the trial judge was correct in classifying dust shields under paragraph 197 of section 8 of the Tariff Law of 1909, and in refusing to classify them under paragraph 141 of the same section of the law. Accordingly, the judgment appealed from will be affirmed in its entirety, without special taxation of costs in either instance.

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

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