

GENATO COMMERCIAL CORPORATION, PLAINTIFF AND APPELLANT, VS. THE INSULAR COLLECTOR OF CUSTOMS, DEFENDANT AND APPELLEE.

G. R. No. 39679. March 13, 1934

Ponente: MALCOLM, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-39679/>

MALCOLM, J.:

The question of first impression raised in this case concerns the liability of a local merchant who imports food supplies from a foreign country and then sells these supplies to the United States Navy pursuant to contracts with the latter, to the payment of the corresponding customs duties provided by the Philippine Tariff Act of 1909. The Insular Collector of Customs and the Court of First Instance of Manila ruled in the affirmative, and the correctness of this view is contested by the importer on appeal.

The parties submitted the case on the following

STIPULATION OF FACTS

"1. That the plaintiff is a domestic corporation duly organized and existing under and by virtue of the laws of the Philippine Islands, with domicile in the City of Manila, P. I.; and that the defendant is the Insular Collector of Customs of the Government of the Philippine Islands.

"2. That on or about May 21, 1931, and November 16, 1931, the plaintiff entered into and executed with the Navy of the United States of America, contracts' for the supply and delivery to it in the Philippine Islands of frozen butter of and veal for its own use and purposes.

"3. That, pursuant to said contracts, the plaintiff Genato Commercial Company, imported into the port of Manila, P. I., from Melbourne, Australia, and supplied and delivered to the Navy of the United States in the Philippine Islands, 1,000 cases containing 27,723 kilos of frozen butter and 520 kilos of veal of the growth, product or manufacture of Australia.

"4. That the defendant herein assessed and collected on the said frozen butter and veal, imported and delivered by the plaintiff to the United States Navy, pursuant to the contracts above-mentioned, import duties amounting to P3,097.16, or P3,086.76 on the butter and P10.40 on the veal, under the provisions of paragraphs 271 and 202, respectively, of section 8 of the Philippine Tariff Act of 1909.

"5. That the plaintiff above-named duly protested against the assessment and collection of duty upon the said frozen butter and veal, on the ground that commodities imported for the use and consumption of the United States Army and Navy in the Philippine Islands are not dutiable.

"6. That, in a decision rendered on August 17, 1932, the defendant overruled the said protests and held that the frozen butter and veal in question are dutiable articles, for they are not specifically exempted from the payment of customs duties under the Philippine Tariff Act. Copy of the defendant's decision, which is found in the record of this case, and of the Tariff Decision Circular No. 1001 therein referred to, are herewith annexed and

made a part of this stipulation of facts as Exhibits A and B.

"7. That, against said decision, the plaintiff has duly filed its protest and given notice in writing to the Insular Collector of Customs of its desire that the case be removed to the Court of First Instance of Manila, in accordance with sections 1383 and 1385 of the Administrative Code."

The Act of Congress of August 5, 1909, commonly known as the Philippine Tariff Act of 1909, provides that, "except as otherwise specifically provided in this Act", the duties therein imposed shall be levied upon "all articles, * * * entering the jurisdiction of the Philippine Islands, from any place or places * * *." (Sec. 1.) The rates of duties to be collected on fresh meat, not otherwise provided for, gross weight, one hundred kilos, are one dollar, and on butter, including weight of immediate containers, a kilo, are six cents. (Sees. 8, 202, 271). The articles in the free list are enumerated without mention being made of supplies imported by the United States Government or the United States Army and Navy. (Secs. 9, 10, 11, 12.) All articles imported into the Islands for the purposes of the law are deemed to be the property of the person to whom the same may be consigned. (Sec. 15.)

Numerous authorities are cited by both parties. Appellant relies on *Panhandle Oil Co. vs. Knox* ([1928], 277 U. S., 218), by a five to four vote, holding that a state tax on sales to instrumentalities of the United States was void; *Asiatic Petroleum Co. vs. U. S.* ([1928], 65 C. Cls., 100), holding, although admittedly not necessary to a decision, that the Philippine Tariff Act of 1909 did not require the United States to pay duty on oil owned by it and imported into the Philippine Islands for use in the military or naval establishments; *District of Columbia vs. American Oil Co.* ([1930], 39 Fed. 2d. S., 510), holding that the seller of gasoline imported into the District of Columbia pursuant to contract with the Secretary of Treasury for use by various executive departments and governmental agencies, was not liable for the tax imposed on motor vehicle fuels sold within the District of Columbia; *Standard Oil Co. of New York vs. Posadas* ([1931], 55 Phil., 715), holding that sales made in the Philippines to the United States Army and the United States Navy are made to instrumentalities of the United States Government, and therefore, are not subject to tax by the Philippine Government; *Opinion of the Attorney-General of the United States of June 8, 1912* (29 Ops. Atty. Gen. U. S., 442), holding that goods imported into the Philippine Islands for the use of the Army of the United States are not subject to the stamp tax imposed by section 284 of Act No. 355 of the Philippine Commission as amended: and the ruling of the Comptroller-General of the United States of November 2, 1929, holding that the past practice of the accounting officers in allowing claims for amount of customs duties imposed by the Philippine Government on goods or merchandise imported into the Philippine Islands by the United States Government for its own use or any of its instrumentalities, including the Navy, must be discontinued pending a decision by the Supreme Court of the United States sustaining the legality of such charges or further legislation by the Congress with respect thereto.

Appellee relies on the opinion of Solicitor-General Wm. H. Taft of February 9, 1892 (20 Ops. Atty. Gen. U. S., 314), stressing the omission in the Tariff Act of a provision that all articles imported for the use of the Government should come in free, and holding dutiable coal imported for the use of the United States marshal's office at Sitka, Alaska, followed in opinion of Attorney-General Wickersham of February 4, 1911 (28 Ops. Atty. Gen. U. S., 599), and expressing the view that torpedoes imported from Europe for the United States Navy are dutiable; decision of the Comptroller of the United States Treasury of November 8, 1912, holding that the effect of the omission in the 1909 statute was to authorize the Philippine Government to impose certain customs duties on supplies imported into the Philippine Islands by the United States for its own use; memorandum of the War Department of March 8, 1915, expressing the opinion that the construction which had been given the tariff statute in practice appears to be the correct one, and also of the Bureau of Insular Affairs of the War Department of February 10, 1915, setting forth the reasons for subjecting supplies of the United States Army to duty; opinion of the Judge Advocate-General of the United States Army of January 10, 1928, holding that the Government of the

United States authorized the imposition of customs duties on Government property imported into the Philippine Islands for its own use; and Tariff Decision Circular No. 1001 of February 8, 1932, in which the Insular Collector of Customs held liquid fuel imported from Borneo into the Philippine Islands and delivered to the United States Army liable to duty. It can also be added that "While property purchased by the United States and imported for its use formerly was specially exempted from duty, the omission of this provision from recent tariff acts has had the effect of making articles for the United States subject to the same customs treatment as merchandise in general." (17 C. J., 599; Treas. Dec, 18213.)

An examination of these cases and opinions discloses that, while the views expressed are entitled to respectful consideration, no case or opinion is exactly controlling. There is no question here involving the applicability of a local statute to sales to the United States or the United States Navy. There is no question here involving articles consigned to the United States or the United States Navy or articles owned by the United States or by the United States Navy and imported into the Philippine Islands for use in the naval establishment. We do not need to decide if goods imported by the United States Navy into the Philippines for its own use and purposes are dutiable. It is, however, worthy of observation that the United States Navy paid customs duties up to January, 1923, and the United States Army up to the close of the year 1929. It is further to be noted that the United States Navy has not joined the protest entered by the importer. What we have to decide is, if goods imported into the Philippine Islands by a merchant and delivered to the United States Navy are dutiable under an Act of Congress.

As a basis for an opinion, certain principles can be accepted as beyond dispute. For instance, the United States is not subject to its own taxing statute, unless it so appears from the law itself, either expressly or by implication. The United States Navy is an instrumentality of the United States' Government. Without congressional consent, no Federal agency or instrumentality can be taxed by the Government of the Philippine Islands. It is not every minor and indirect taxation of agencies of the Federal Government which protects them from taxation, but only such taxation as interferes with or impairs their efficiency in performing the functions by which they serve the Government.

The solution of the question of whether the Government of the Philippine Islands, acting pursuant to authority conferred by an Act of Congress, may exact a tax on importations intended for use by the United States Navy depends upon the interpretation of the Tariff Act of 1909. The inquiry should be directed toward the determination of the intention of the Congress.

The Philippine Tariff Act of March 3, 1905, enacted by the United States Congress, expressly included in its free list supplies imported by the United States Government for its use or that of its subordinate branches. The Tariff Act of 1909 contains no such provision. Moreover, the Congressional record discloses that action to exclude governmental supplies from the free list of the Act was taken deliberately. The omission in the Philippine Tariff Act of 1909 of a provision similar to that found in the Philippine Tariff Act of 1905 providing for the admission free of duty of supplies imported by the United States Government or a subordinate branch, is good evidence of the purpose of the Congress not to exclude from the operation of the existing Tariff Act articles imported by the United States Government for the use of the United States Navy. But as we have been careful to explain, we are not compelled to go that far. Some doubt might have existed of the rights of the local importer under the former Tariff Act because the exemption was in favor of the United States Government and its branches only, but that doubt is removed when even the exemption of the government was eliminated.

In other words, an intention is not disclosed of excluding from the payment of duties provided by the Tariff Act of 1909, articles imported into these Islands from foreign countries and then delivered by the importer to a branch of the Federal Government in the Philippine Islands. The butter and veal involved in the present case still belonged to the plaintiff, a domestic corporation, at the time of the importation into the Philippine Islands. The butter and

veal imported by the local merchant, if sold to the public, would be subject to the payment of customs duties. The mere fact that a private person does business with an instrumentality of the Federal Government does not clothe him with immunity from taxation.

The reasons which induced the Congress to eliminate from the Tariff Act of 1909 the provision to be found in a prior Tariff Act providing for the free admission of government supplies into the Philippine Islands, are illuminating. It was felt that placing government supplies on the free list resulted in an injustice to local merchants in the Philippine Islands. They could not compete on the same terms with the importer who might be exempt from the payment of duty by the provisions of the law. To put the local merchant on an equal footing with the foreign merchant and to divert purchases to the United States or the Philippines were the chief objects in eliminating from the Tariff Act of 1909 the free entry provision. These reasons are not left in doubt, for they are summarized in the opinion of the Chief of the Bureau of Insular Affairs of the War Department hereinbefore mentioned, who because of his position must have been fully informed on the matter.

To give a concrete example of these purposes. Take beef and the desire to encourage the cattle industry of the Islands. The United States Navy calls for bids on fresh meat. The local cattle raiser and the importer compete. The disadvantage is with the former even though not liable to the payment of the sales tax if the importer can bring in foreign beef free of duty. The Congress wanted to afford protection to Philippine and American industries, and it is for us to encourage this policy.

The Bureau of Customs in the construction of the Tariff Act of 1909 has, for a period of over twenty years, consistently held that all articles imported into the Philippine Islands are dutiable except those specifically mentioned in the Tariff Act as exempt from the payment of duty, and that as there is no provision in the Tariff Act specifically exempting goods imported from foreign countries for the use of the United States Army and Navy, such goods are dutiable. A contemporaneous construction of a statute without change of that construction by legislative or judicial decision is generally the best construction.

To effectuate the intention of the Congress of the United States Congress as disclosed by the language of the Philippine Tariff Act of 1909 and by the deliberate omission of a provision including governmental supplies in the free list, to make possible the carrying out of the objects of the Tariff Act, and to harmonize judicial construction with long continued executive practice, are the determining factors which motivate our decision. We join the Insular Collector of Customs and the Court of First Instance of Manila in their stand, and find the appellant, a local merchant who imported food supplies from a foreign country and then sold these supplies to the United States Navy pursuant to contracts with the latter, liable to the payment of the corresponding customs duties provided by the Philippine Tariff Act of 1909. Accordingly, the judgment will be affirmed, the appellant to pay the costs¹ of this instance.

Villa-Real, Abad Sartfos, Hud, Imperial, Butte, Goddard. and Diaz, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.