

THE PHILIPPINE PRODUCTS COMPANY, PLAINTIFF AND APPELLEE, VS. THE COLLECTOR OF CUSTOMS, DEFENDANT AND APPELLANT.

G.R. No. 4287. August 18, 1908

Ponente: WILLARD, J.

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WILLARD, J.:

Paragraph 245 of the Tariff Law, as amended by the Act of Congress of March 3, 1905, is as follows:

"Agricultural machinery and apparatus, machinery and apparatus for pile driving, dredging, hoisting, and making or repairing roads, for refrigerating and ice making, sawmill machinery, machinery and apparatus for extracting vegetable oils and for converting the same into other products, for making sugar, for preparing rice, hemp, and other vegetable products of the Islands for the markets, and detached parts therefor, also traction and portable engines and their boilers adapted to and imported for and with rice-threshing machines, and steam plows, five per centum ad valorem.

"NOTE.—The expression 'preparing vegetable products for the markets,' shall be taken to mean putting said products in their first marketable condition."

After that law went into effect, the plaintiff bought in America steel tanks to be used in its oil mill in Manila. As we understand the evidence, eight of these tanks were imported ready for use. Other tanks were so large that, if put together in America, they could not be placed in the hold of the vessel. For that reason the parts were sent over here and they were put together after their arrival. All of the material so imported was, upon its arrival, placed in the mill of the plaintiff, and has since been, and is now being used therein, and all of it constitutes, a necessary part of a complete oil mill.

When the property was imported, the importers' declaration stated that it was an additional shipment of apparatus necessary for the extraction of cocoanut oil and putting it in first marketable condition. The collector, however, assessed the tanks that were already set up and the tanks that came in pieces under other paragraphs of the Tariff Act and refused to assess them under paragraph 245. The importer appealed to the Court of First Instance, which reversed the ruling of the collector, and ordered all the material, except six tubs of paint, to be assessed under paragraph 245. From this judgment the Government has appealed.

The view which the collector took of the case is indicated by his ruling upon the fourth item, namely, the steel tanks already set up. He said:

"These were properly classified under paragraph 58, and, while doubtless intended for use in an oil mill, are equally susceptible of use for a dozen other purposes. They, therefore, are not intrinsically oil-mill apparatus, nor does it even appear that the predominant use of the tanks of this soil; is such as to bring them under paragraph 245."

This same contention of the collector was discussed by this court in the case of *Murphy, Morris & Co. vs. The United States* (8 Phil. Rep., 479). It was there said:

"The doctrine contended for by the collector of customs that the engine being separated from the threshing machine might be used for some other purpose, and therefore should be classified under a different head, in our opinion is not tenable."

That case is decisive of this case and the result is that the judgment of the Court of First Instance is affirmed, with the costs of this instance against the appellant. So ordered.

Arellano, C. J., Torres, Mapa, Carson, and Tracey, JJ., concur.

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