

**MURPHY, MORRIS &#038; CO., PLAINTIFFS AND APPELLEES, VS. THE COLLECTOR OF CUSTOMS, DEFENDANT AND APPELLANT.***G.R. No. 4608. October 16, 1908*

Ponente: WILLARD, J.

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On the 29th day of October, 1904, J. G. White & Co. imported through the plaintiffs, as brokers, certain goods which in their declaration were described as "one steam turbine, condensing machinery, hot well and pumps, complete with parts and accessories." The steam turbine was classified by the officers of the customs under paragraph 257, letter (b), of the Tariff Act of 1901 (No. 230) and the condensing machinery under the same paragraph. The importers appealed from this decision to the Collector of Customs of the Philippine Islands, who affirmed the classification as to the steam turbine and the condensers, but sustained the protest as to the pumps. The importers thereupon stated that they would abide by the ruling as to the pumps, but appealed to the Court of First Instance from the ruling of the Collector so far as it related to the steam turbine and the condensers. That court reversed the decision of the Collector and held that all of the machinery should be classified under paragraph 250, as machinery for the generation of electricity for lighting or for power. From that decision the Government has appealed to this court.

The paragraphs of the Tariff Law in question are as follows:

243. Marine engines and steam pumps; hydraulic, petroleum, gas, and hot or compressed air motors, N. W., 100 kilos.....

\$1.50

246. Locomotives, including tenders and traction engines of all kinds using steam or other power, Q. W., 100 kilos.....

1.00

250. Dynamos, generators, excitors, and all other machinery for the generation of electricity for lighting or for power, also transformers, N. W., 100 kilos.....

5.00

257. Other machinery and detached parts not otherwise provided for:

(a) Of copper and its alloys, N. W., 100 kilos.....

4.00

(b) Of other material, N. W., 100 kilos.....

1.00

"Provided, That none of the articles classified under paragraphs two hundred and fifty-two, two hundred and fifty-three, two hundred and fifty-four, two hundred and fifty-five, two hundred and fifty six, and two hundred and fifty-seven shall pay a less rate of duty than twenty per centum ad valorem."

When the importers made their declaration for entry, they claimed that all of the machinery should be classified under paragraph 243. Upon their appeal to the Collector of Customs, they claimed that the machinery should either be classified under paragraph 243 or under paragraph 250, as being machinery for the generation of electricity.

The machinery was imported for use, and is now actually used by the Manila Electric Railroad and Light Company in its plant in Manila, and it is apparently claimed by the importers that it constitutes a complete machine for the generation of electricity and should have been classified as one machine.

It will be noticed that when the importers made the entry they did not themselves so classify it. They separated the machinery into the turbine, and the condensers, wells, and pumps and did not then claim that it should be classed under the paragraph relating to dynamos. It is said in the brief of the appellee "that the turbine engine and the generator being one complete machine, and designed to be used for the generating of electricity, and for no other purpose, the turbine engine should be classified as claimed, as a component part of the generator."

That this machinery as imported was not a complete machine for the generation of electricity is clear because no dynamo was imported with it. It must therefore be separated into its component parts as was done by the Collector, and these parts must be considered separately.

The steam turbine is a steam engine for furnishing power. It does not by itself generate electricity. For that purpose another engine is added to the steam engine, the purpose of the additional engine being to transform the motion of the steam engine into electric current. We do not agree with the contention of the appellee that every kind of machinery used in an electric light and power plant is "other machinery for the generation of electricity." As said by the Attorney-General:

"Where a statute describes things of a particular class or kind accompanied by word is of a generic character preceded by the word 'other,' the generic words will usually be limited to things of a kindred nature with those particularly enumerated unless there be something in the context or the history of the statute to repel such an inference. This is on the principle of *noscitur a sociis*, which is held applicable to revenue laws as well as penal enactments. (*Adams vs. Bancroft*, 3 Sumner, 384; 1 Fed. Cases, 84) \* \* \*. The application of these rules of statutory interpretation and construction to the present case makes it very clear that the classification 'dynamos, generators, excitors, and all other machinery for the generation of electricity for lighting or for power, also transformers would not include a steam turbine and pumps and condensers because these are not of the same class or kind of machinery as dynamos, generators, and excitors."

As said also by the Collector in his decision :

"Such machinery and apparatus is not machinery for the generation of electricity, but furnishes power for the operation of machinery for the generation of electricity."

If this steam turbine can be considered a machine for the generation of electricity, then a turbine water wheel would have to be so considered. The decision of the court below holding that it is machinery for the generation of electricity can not be sustained.

It is claimed by the importers, however, that even if it can not be classified under paragraph 250, it should yet be classified under paragraph 243 as a marine engine.

The evidence taken before the Collector and that taken before the Court of First Instance shows that the

machinery was not intended for use in a ship, that this engine could not reverse, and that the essential feature of a marine engine is that it be reversible. If this engine were placed in a ship it could not operate it; it would be necessary, as a witness said, to add auxiliary parts to it for the purpose of making it a reversing engine.

A further claim is made by the importer to the effect that, even if it is not technically a marine engine, yet as long as stationary engines are not anywhere mentioned in the Tariff Act of 1901, "it was the purpose of the legislature to make but two classes of steam engines: one, the locomotive or traction engine, and the other, the stationary or marine engine, because all stationary engines may be used for marine purposes, while the locomotive engine is not adapted to such purposes. The language of the section supports this view. Marine engines therefore will be held to mean steam motors."

This contention can not be sustained, for it was held by this court in the case of *Calder & Co. vs. The United States* (8 Phil. Rep., 303) that a portable steam engine used as a motor for a rice-cleaning plant must be classified under paragraph 257 as "other machinery" because it was nowhere else specifically mentioned in the act.

We think that the steam turbine was properly classified by the Collector under the last-named paragraph. No mention is made of the condensers in the brief of the appellee and we are of the opinion, also, that these were properly classified by the Collector under the same paragraph.

The judgment of the court below is reversed, and the case remanded with directions to affirm the decision of the Collector. No costs will be allowed to either party in this court. So ordered.

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

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