

KINKWA MERIYASU CO., P. I., INC., PLAINTIFF AND APPELLEE, VS. THE COLLECTOR OF CUSTOMS, DEFENDANT AND APPELLANT.

G.R. No. 46197. September 22, 1939

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Kinkwa Meriyasu Co., P. I., Inc., paid under protest the amount of P290 as customs duties corresponding to twenty sacks of mother-of-pearl in gross for buttons under rate No. 277 (b) of 40 per cent ad valorem. Its protest having been overruled by the Collector of Customs, it appealed to the Court of First Instance of Manila, which reversed the appealed judgment and ordered that the plaintiff recover the excess of the duties which it had paid.

The Question to be answered in this appeal boils down to determination of whether the said article should be classified as mother-of-pearl in gross subject to the 15 per cent ad valorem tax, or as already wrought subject to the 40 per cent ad valorem tax.

The Philippine Tariff Act of 1909, as amended by Act No. 4053, provides as follows:

"277. * * * mother-of-pearl:

"(a)

Unwrought, or cut for settings or pierced for beads, fifteen per centum ad valorem,

"(b)

Wrought, not otherwise provided for, forty per centum ad valorem."

Now, then: the parties have submitted to the court a stipulation of facts, a part of which reads:

"7. With respect to the five (5) 'Processes' necessary before a piece of shell could be sold as buttons, the parties submit the following exhibits (already in the hands of the clerk of court):

"1. Exhibit B equivalent to Process 1. (The imported article);

"2. Exhibit B-1 equivalent to Process 2;

Exhibit B-2 equivalent to Process 3;

Exhibit B-3 equivalent to Process 4;

Exhibit B-4 equivalent to Process 5;

Exhibit B-5 the finished article.

"8. That Process (1) mentioned in the preceding paragraph hereof takes place in a foreign country while all the other processes thereafter take place in the Philippines."

From what has been quoted, it is evident that the article in question cannot be considered, for purposes of assessment of customs duties, as an article already wrought, because in order to be converted into buttons and sold as such, a series of processes is necessary before the said article becomes completely wrought.

The Solicitor-General argues that the article in question is "wrought mother-of-pearl". "They have been worked into shape and labor has been expended to produce them. They are made by cutting tiny little disks out of mother-of-pearl into round shape of different sizes and thickness, depending upon the kind of buttons for which they are intended to be made." What we have underlined clearly shows that the article in question is not yet completely finished, elaborated, manufactured, "wrought", because something, or even many things, had yet to be done to convert the same into the kind of buttons intended for the sale thereof.

The appealed decision is affirmed, without pronouncement as to the costs. So ordered.

Avanceña, C. J., Villa-Real, Imperial, Diaz, Laurel, and Moran, JJ., concur.

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