

ORIENTAL GLASS PALACE, PETITIONER AND APPELLANT, VS. THE INSULAR COLLECTOR OF CUSTOMS, RESPONDENT AND APPELLEE.

G.R. No. 47410. November 29, 1940

Ponente: LAUREL, J.

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LAUREL, J.:

On November 4, 1935, the Oriental Glass Palace, through its brokers, Bartolome and Javier, Inc., filed with the Bureau of Customs an entry and appraiser's return (Exhibit 2) covering "159 cases of rolled glass figured white and colored for windows which it imported from Hamburg, Germany. Attached to the return was the corresponding consular invoice consisting of 16 sheets (Exhibit 1) and this showed two values: (1) net market value cif Manila, \$2,311.33, and (2) market value for home consumption in Germany, \$4,254.96. Following the law and regulations on the subject, the latter was considered as basis for assessment and duty on the said merchandise was assessed in the amount of P1,260.26. Of this amount, the Oriental Glass Palace voluntarily paid the sum of P568.98, but the balance of ^691.28 it paid under protest. The Insular Collector of Customs overruled the protest and the Oriental Glass Palace appealed to the Court of First Instance, which court, in a decision rendered, dismissed the appeal, with costs to the petitioner. From said decision of the lower court, appeal is made to this Court.

No error is assigned in appellant's brief, but the discussion therein brings us head on to one decisive question: Which value is the proper basis in assessing the duty to be paid on the merchandise in question, the export value of \$2,311.33, or the home consumption value in Germany of \$4,254.96?

The answer is to be read in Rule 13 (a) of the Philippine Tariff Act of 1900. It says:

"Whenever imported merchandise is subject to an ad valorem rate of duty, the duty shall be assessed upon the actual market value or wholesale price of such merchandise, as bought and sold in usual wholesale quantities, at the time of exportation to the Philippine Islands, in the principal markets of the country from whence imported, and in the condition in which such merchandise is there bought and sold for exportation to the Philippine Islands, or consigned to the Philippine Islands for sale, including the values of all cartons, cases, crates, boxes, sacks and covering of any kind, and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the Philippine Islands." (Underscoring ours.)

Without straining the letter of the law as it stands, we reach the obvious conclusion that the amount of \$4,254.96 (the home consumption value in Germany) is the "actual market value or wholesale price * * * at the time of exportation to the Philippine Islands, in the principal markets of the country from whence imported." The fact is that the home consumption value mentioned in the consular invoice is broad enough to cover both the actual as well as the wholesale value. Pertinent to this point, we quote with favor the holding of the Supreme Court of the United States in the case of *U. S. vs. Passavant*, 169, U. S. 16:

"Was the action of the appraiser lawful in treating the so-called German duty as an element of value in determining the actual market value or wholesale price of these cotton velvets, at the time of exportation, in the principal markets of Germany?"

"What was to be ascertained was the actual market value or wholesale price of the merchandise as bought and sold in usual wholesale quantities at the time of exportation, in the principal markets of the country from whence imported. This market value or price was the price in Germany and not the price after leaving that country, and the act does not contemplate two prices or two market values.

"The certificate of facts states that the German duty is imposed on merchandise when 'sold by the manufacturers thereof for consumption or sale in the markets of Germany' ; and 'is collected when the finished product goes into consumption in Germany.' As the tax accrues when the manufacturer sells, his wholesale price includes it, and the purchaser who buys these cotton velvets in wholesale quantities in the German market pays a price covering the tax, and that is the price for the merchandise when bought and sold in those markets." (Underscoring ours.)

Appellant likewise assails the veracity and genuineness of the sheet of paper upon which appears the home consumption value in Germany of \$4,254.96. It is surprising, appellant alleges, that there appears a sheet of paper miraculously added to the bunch of papers which accompanied the consular invoice, adding that it does not contain the signature of the consul of the port of exportation and that while the other parts of the consular invoice are duly paged it is not. In answer to this argument we need only quote the pertinent portion of the consular regulations of 1932: "Copies of such additional sheets must be attached to each copy of the printed form. They should be pasted or stapled to the invoice either at the top-center of the face of the form, or directly beneath the column heading on that side." * * * "It is not necessary that the additional sheets be signed. The signatures on the printed form are sufficient." As may be read from the full text of the consular regulations of 1932, if the description of the merchandise as well as such other information which may be necessary, cannot be made in printed form, the same may be written on a separate sheet of paper and attached to the printed form, and this need not be signed, the signature on the printed form being sufficient. What is more, a cursory examination of the consular invoice shows that the 15 sheets of paper attached to the printed sheet are part and parcel of the latter. This is evidenced by the fact that the type of the letters written on the printed sheet and the 15 sheets attached thereto is uniform and the same.

In view of the foregoing, the decision of the lower court is affirmed, with costs against the appellant. So ordered.

Avanceña, C.J., Imperial, Diaz, and Horrilleno, JJ., concur.

Judgment affirmed.

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