

THE COMMISSIONER OF CUSTOMS, PETITIONER, VS. CAMPOS RUEDA CORPORATION AND HONORABLE COURT OF TAX APPEALS, RESPONDENTS.

G.R. No. 55020, August 20, 1990

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is a petition for review of the decision of the Court of Tax Appeals in C.T.A. Case No. 2829 entitled "Campos Rueda Corporation, Petitioner, v. The Honorable Commissioner of Customs, Respondents" reversing the decision of the Commissioner of Customs dismissing the protest of private respondent Campos Rueda Corporation.

The facts of the case as taken from the decision of respondent court and which are not disputed are as follows:

Private respondent Campos Rueda Corporation (Campos Rueda, for brevity) imported 46 cartons (consisting of 27,000 pieces) of Tungsol flashers. Before the goods arrived at the port of Manila, Campos Rueda filed with the Collector of Customs of Manila a request for value information for the declaration of the imported flashers under Tariff Heading No. 85.09 of the Tariff and Customs Code at 30% ad valorem duty, for classification purpose. The Customs appraiser however, re-classified the goods under Tariff Heading No. 85.19 of the Tariff and Customs Code at 50% ad valorem.

When the goods arrived at the port of Manila on February 12, 1974 on board S/S "Luna Maersk" under Bill of Lading No. CFS-9, Campos Rueda immediately filed Customs Import Entry and Internal Revenue Declaration No. 0103185 under Entry No. 26867 under Tariff Heading No. 85.19 of the Tariff and Customs Code at 50% ad valorem but, under protest. On March 26, 1974, it paid P134,377.00 as duties and taxes on the goods, also under protest. On April 4, 1974, it filed a timely protest against the re-classification resulting in the payment of additional customs duty of P26,258.00 and advance sales tax of P2,297.00 or a total difference of P28,555.00. Campos Rueda prayed for the refund of the said difference (pp. 27-28, Rollo).

On October 11, 1974, the Collector of Customs dismissed the protest. The decision was appealed by Rueda Campos to the Commissioner of Customs, which affirmed the dismissal on July 30, 1976. The decision of the Commissioner of Customs was then appealed to the Court of Tax Appeals which modified the Commissioner's decision on July 28, 1980 by ordering the refund to private respondent Campos Rueda of the sum of P26,258.00 but denying the refund of the advance sales tax of P2,297.00 on the ground of failure to file a written claim for refund thereof and to make the Commissioner of Internal Revenue a party thereto. The dispositive portion of the decision reads:

"WHEREFORE, the decision appealed from is modified. Respondent Commissioner of Customs is hereby ordered to refund petitioner the sum of P26,258.00. Without pronouncement as to costs."

Not satisfied with the decision of the Court of Tax Appeals, the Commissioner of Customs, represented by the

Office of the Solicitor General, filed this petition for review on November 28, 1980 (p. 17, Rollo).

The only issue for resolution in this petition is the correct classification of the imported Tungsol flashers, i.e., whether they should fall under Tariff Heading No. 85.09 at 30% ad valorem or under Tariff Heading No. 85.19 at 50% ad valorem, both under the Tariff and Customs Code.

Tariff Heading No. 85.09 of the Tariff and Custom Code provides:

"85.09. Electrical lighting and signalling equipment and electrical windscreen wipers, defrosters and demisters, for cycles or motor vehicles --- ad val. 30%."

On the other hand, the same Code provides under Tariff Heading No. 85.19:

"85.19. Electrical apparatus for making and breaking electrical circuits, for the protection of electrical circuits, or for making connections to or in electric circuits (for example, switches, relays, fuses, lighting arresters, surge suppressors, plugs, lamp-holders and junction boxes); resistors, fixed or variable (including potentiometers), other than heating resistors, printed circuits, switch boards (other than telephone switchboards) and control panels:

Petitioner contends that the imported flashers should be classified under Tariff Heading No. 85.19. The documents covering the importation of the goods show that they are "electrical lighting and signalling parts." Hence, being parts only of a whole signalling equipment, the flashers by themselves cannot function as a signalling equipment. The imported article can be considered merely as electrical apparatus for making and breaking electrical circuits falling under Tariff Heading No. 85.19 of the Tariff and Customs Code.

In its brief, private respondent Campos Rueda Corporation, on the other hand, contends that the imported flashers should be classified under Tariff Heading No. 85.09. Private respondent contends that the subject importations are electrical apparatus used on motor vehicles for signalling purposes, that is, to signal right or left hand turn by means of electrical flashers in front and at the rear of motor vehicles.

In finding for private respondent, respondent Court of Tax Appeals found:

"Here in the case at bar, the evidence adduced by petitioner, both oral and documentary, and the records of the Bureau of Customs pertaining to this case on the basis of which respondent submitted this case for decision, definitely establish the fact that the general purpose or predominating use to which Tungsol Products (flashers) are applied or employed, and for which petitioner imported them, is precisely as electrical equipment for signalling purposes for motor vehicles; that is, to signal or indicate a right or left hand turn by means of electrical flashes in front and at the rear of motor vehicles. The import entry and internal revenue declaration of the shipment (p.10, Customs records; Exh. "F", pp. 16-17, CTA records); consular invoice of merchandise NY65075E (pp. 12-13, Customs records; Exh. "D," p. 14, CTA records); bill of lading (p.16, Customs records); commercial invoice of merchandise issued by E.B. Schwinger & Company (p. 18, Customs records; Exh. "C", p.13, CTA records); Prudential Bank and Trust Company's advice of letter of credit (p. 19, Customs records); E.B. Schwinger Philippines firm order (p.20, Customs records; Exh. "B", p. 11, CTA records); order of payment dated March 2, 1974 issued by the Bureau of Customs (p.22, Customs records; Exh."G", p.18, CTA records); and Central Bank Official Receipt No. 287240 dated March 26, 1974 (p.23, Customs records; Exh. "H", p.18, CTA records), all show that the Tungsol Products (flashers) are electrical lighting and signalling parts; and petitioner imported them as electrical apparatus to be used on motor vehicles for signalling purposes, to signal a right or left turn by means of electrical flashes in front and at the rear of motor vehicles. (pp. 24-26, Customs records.) This is confirmed and corroborated by the testimony of petitioner's purchasing manager and the brochure (or literature) of the Tungsol Product issued by the manufacturer, Wagner Electric Corporation, 1 Summer Avenue, Newark, New Jersey, U.S.A., describing the uses – FOR AUTOMOTIVE DIRECTION SIGNALS–HAZARD WARNING CONDITION ALERT AND ACCESSORY

APPLICATIONS – and operating principles, performance characteristics, manufacturing standards, mechanical specifications, application specifications and effect of circuit conditions, which are all indicative of its use and adaptability as electrical lighting and signalling apparatus for motor vehicles. Absolutely no proof whatsoever was presented by respondent to controvert or dispute the evidence adduced by petitioner that the Tungsol flashers in question are electrical apparatus for use on motor vehicles for lighting or signalling purposes. (pp.32-34, Rollo)

In the case of *La Compañía General de Tabacos de Filipinas v. United States*, 8 Phil.438, it was ruled that:

"The general purpose for which an article is used must govern the assessment of duty; any other rule would lead to confusion and injustice. It is the general use to which articles are chiefly adopted and for which they are chiefly used that determine their character within the meaning of the Tariff laws. It is the predominating use to which articles are generally applied or used that determines their character for the purpose of fixing the duty, and not the specific or special use which any particular importer may make of the articles imported (*Hartranft v. Langfeld*, 125 U.S., 128).

In the Explanatory Notes to the 1950 text of the Brussels Nomenclature upon which our tariff law was based, the following appears under Tariff Heading No. 85.09:

"85.09. Electrical lighting and signalling equipment and electrical windscreen wipers, defrosters and demisters for cycles or motor vehicles --- ad val. 30%."

"This heading covers electrical apparatus and appliances specialised for use on cycles or motor vehicles for lighting or signalling purposes" (p. 2155, Commentaries on the Tariff and Customs Code of the Philippines, Vol. 111, 1984 Fourth and Revised Edition, Montano A. Tejam).

"Subject to the general provisions regarding the classification of parts, parts of the goods of the present heading are also classified here" (p. 2155, *Ibid*).

Parts of machines, apparatus of appliances which are suitable for use solely or principally with a particular kind of machine or with a number of machines falling within a specific heading, as a rule, are to be classified with the machines in the same heading (See Montano A. Tejam, Commentaries on the Revised Tariff and Customs Code of the Philippines, p. 1140, Vol. II, 1984 Revised Edition). There being a clear showing that the subject imported flashers are to be used solely and principally to signal or indicate a right or left hand turn in front and at the rear of motor vehicles, they should be classified under Tariff Heading No. 85.09 as electrical lighting and signalling equipment.

It is also noted that petitioner had, on two occasions in the past, classified and assessed customs duties on similar imported Tungsol Flashers under Tariff Heading No. 85.09 (p. 35, Rollo). On January 25, 1974, then Acting Collector of Customs Rolando G. Geotina issued the circular classifying 12V Flasher for Motor Vehicles under Tariff Heading No. 85.19 of the Tariff and Customs Code reasoning that:

"x x x

"For being imported alone, subject article cannot be properly deemed as electrical signalling equipment for motor vehicle but should be treated more as a device for closing or opening an electrical circuit. (emphasis supplied)

"x x x."

The respondent Court of Tax Appeals opined, and We agree, that:

"The Tariff Law employs the words 'electrical lighting and signalling equipment x x x for motor vehicles' - without more, and respondent admits that the Tungsol flashers in question are electrical lighting and signalling

equipment for motor vehicles. Nothing there speaks of 'for being imported alone,' an article falling under Tariff Heading No. 85.09 as electrical apparatus for use on motor vehicles for lighting and signalling purposes shall be treated as a device for making and breaking electrical circuits under Tariff Heading No. 85.19. Where the law does not provide that an article imported for electrical lighting and signalling equipment for motor vehicles falling under Tariff Heading No. 85.09, if imported alone, shall be classified under Tariff Heading No. 85.19 as 'electrical apparatus for making and breaking electrical circuits,' that provision should not be read into the law."

ACCORDINGLY, the petition for review is DENIED. The questioned decision of respondent Court of Tax Appeals is AFFIRMED.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Grino-Aquino, JJ., concur.

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