

WALTER E. OLSEN & CO., PLAINTIFFS AND APPELLEES, VS. THE INSULAR COLLECTOR OF CUSTOMS, DEFENDANT AND APPELLANT.*G. R. No. 5603. March 22, 1910*

Ponente: MORELAND, J.

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This is an appeal from a judgment of the Court of First Instance which overruled a decision of the Insular Collector of Customs, requiring payment of duty upon certain packing cases, under Rule 18 of the Tariff Revision Law of 1905.

The respondents, Walter E. Olsen & Co., imported into the Philippine Islands certain manufactured tobacco, which was classified by the Collector of Customs at the port of Manila under paragraph 364 of the Tariff Law as "Tobacco * * * (b) manufactured, net weight, kilo, one dollar."

The tobacco was packed in small cotton sacks, a number of which were inclosed in a sealed tin box. From four to six of these tin boxes were inclosed in a wooden box or packing case, which was securely fastened for shipment. The Collector of Customs included the weight of the tin boxes in the dutiable weight of the tobacco. Against this ruling the importers protested, on the ground "that the tin casing in which the sacks of tobacco were inclosed should not be figured and included as net weight of the tobacco, but should be classified under its own weight; that the immediate receptacle of the tobacco is the sacks in which the tobacco is packed." In overruling this protest the Insular Collector of Customs said:

"The importation in question consists of certain smoking tobacco packed in small cotton sacks, a number of which constitute the contents of small tin boxes, there being several of these tin boxes packed in a wooden case. The importers' contention being that the dutiable weight should be that of the tobacco, together with the cotton sacks, and that the interior tin cases, as well as the wooden cases, should be considered as common exterior coverings. * * * Rule 18 of the Tariff Revision Law of 1905 reads: 'In all cases in which dutiable merchandise shall by its tariff number be dutiable upon net weight, the dutiable weight of such merchandise shall not include the weight of any common exterior cover * * * but shall include all interior or immediate receptacles.' This shipment of tobacco was packed in (1) a 'common exterior covering,' consisting of a wooden case; (2) 'interior receptacles,' consisting of several tin cases packed in the wooden case; and (3) in 'immediate receptacles,' consisting of cotton sacks. In the opinion of the undersigned, the wording of the law is too clear and explicit to permit a doubt as to the proper classification of any of the three kinds of receptacles mentioned. In the liquidation of the entry concerned the dutiable weight of the common exterior covering (the wooden packing case) was not included in the dutiable weight of the merchandise, but, following Rule 18, there was included therein 'all interior or immediate receptacles' (the tin cases and cotton sacks), which is deemed to be the proper classification indicated by said rule."

From this decision an appeal was taken to the Court of First Instance, which reversed the ruling of the Collector. The court said:

"Considering, then, that to the net weight of the tobacco the only thing which must be added to it under this

rule for the purpose of determining its weight must be the interior or immediate receptacle, there can be but one interior or immediate receptacle, and every cover or receptacle which is added to the interior or immediate receptacle is an exterior cover. In this case the tobacco being contained in cloth sacks or bags, such cloth sacks or bags are the immediate interior receptacles, and if these are inclosed in tin cases the tin cases become an exterior receptacle, and if the tin cases are again inclosed in wooden cases or boxes, such wooden cases or boxes become an additional exterior covering, and all the exterior covers should be excluded from the net weight of the dutiable article. The Collector of Customs in his decision seems to have proceeded upon the reverse order, and, excluding the common exterior cover, finds all within it interior or immediate receptacles, and includes them in the weight of the article to determine its net weight. I am of the opinion that this is error from the very language of the rule, which says that 'the dutiable weight of such merchandise shall not include the weight of any exterior cover.' "

A statute, such as that of Rule 18, should be construed in a broad and liberal way. The particular sentence or phrase under consideration should be read in connection with other provisions of the statute of which it forms a part. The Act attempts to provide specific rules for the levying and adjusting of duties on packing, packages, and receptacles for dutiable goods. The general rule is first stated that "common packing, packages, receptacles, and coverings of imported merchandise in use and imported with such merchandise shall be dutiable under their corresponding paragraphs of the tariff except in cases of goods dutiable by gross weight or ad valorem." If the merchandise is dutiable upon the gross weight, the dutiable weight "shall include the weight of all covers, receptacles, wrappers, packages, and packing of every description, whether exterior, interior, or immediate, without any allowance for tare." If the merchandise is dutiable upon the net weight, "the dutiable weight of such merchandise shall not include the weight of any common exterior cover, receptacle, package, wrappers, or packing, but shall include all interior or immediate receptacles," that is, packing, receptacles and coverings shall pay duty as such under the proper paragraph of the law, except when the goods in the cover or receptacle are dutiable by gross weight or ad valorem, in which case the coverings and packings of every nature are included in the weight upon which the duty is estimated. A distinction is made between exterior, interior and immediate receptacles, and it is evident that these words as here used are not synonymous. It is a recognition of the fact that the importer may pack his goods for shipment in such manner that there may be either exterior, interior, or immediate, as well as exterior or immediate receptacles. If the merchandise is dutiable upon the net weight, the dutiable weight shall not include any common exterior covering, receptacle, package, wrapper, or packing, but shall include all interior or immediate receptacles.

The articles under consideration were dutiable upon their net weight. The law recognizes that they may be so packed that there will be exterior, interior and immediate receptacles. The shipper may pack his goods as his interest or convenience dictates. The common exterior cover must be excluded, and the immediate receptacle must be included in the dutiable weight. If the shipper thinks it to his advantage to inclose certain of the immediate receptacles in a receptacle common to them only, he may import them in that form, because the exterior cover is then the common cover of the immediate receptacles. If he chooses to make these packages into one large package with an exterior cover common to them all, what were originally common covers become interior receptacles of the immediate receptacles, with an exterior common cover of them all. Rule 18 then says that the net weight of the dutiable merchandise shall include all of these interior or immediate receptacles. This means all interior receptacles and all immediate receptacles. To construe the words "interior" and "immediate" as synonymous would be to render the phrase meaningless and to lose sight of the fact that the statute in the preceding paragraph clearly recognizes the difference between interior and immediate receptacles. We therefore construe Rule 18 to mean that the exterior covering when common to all shall be excluded, and all other receptacles, whether interior or immediate, shall be included in the dutiable weight of the merchandise.

The court below held each tin box to be "an additional exterior covering." There is no provision made in the law

for "additional exterior" coverings. Provision is made only for a common exterior covering. We have in this case a large wooden box inclosing ten tin boxes, each tin box, in its turn, inclosing ten bags, of tobacco. In determining how many exterior coverings are contemplated by the law, we must take into consideration that Rule 18, to speak figuratively, is looking at the wooden box as a whole. This is necessarily so because it is the specific package upon which duty is to be levied that is to say, it is the unit of dutiability. If there were more than one such box, each one would, in the same way, be looked at separately. In other words, there would be as many separate applications of the rule as there are separate visible packages. If we look at each wooden box as a whole, as the unit of durability, it is evident, as a matter of language, that there is only one common exterior covering so far as that box and its contents are concerned. This must necessarily be so because there can not be a common exterior covering for two or more boxes which are entirely separated from each other, each one capable of being moved and transported independently of the other, and occupying entirely different and widely separated portions of uninclosed space. Two objects which are inclosed in a common covering are incapable of separation from each other farther than the limits of the common covering. The instant that one of two objects inclosed in a common covering comes to occupy a portion of space not inclosed in the common receptacle, that instant the covering ceases to be common in its relation to those two objects.

It is apparent, therefore, that as to all of the tin boxes inclosed in the wooden covering there is but one common covering. To be sure, each tin box is, in a sense, a common covering as to the ten bags of tobacco contained in it, but it is not common as to the other tin boxes within the same wooden covering. When we say that each tin box is a common covering as to all the bags within it, we are looking at only a part of the shipment; we are dividing the unit of dutiability. We are not looking at the shipment as a whole. As we have before stated, a proper interpretation of Rule 18 requires that each box occupying a separate portion of uninclosed or theretofore unoccupied space must be looked at separately, each being a separate and distinct package to which the rule must be applied in levying the duty. The word "common," by force of its definition, refers to all of the ten tin boxes. The words "common exterior covering" refer, for the same reason, to all of the ten tin boxes. Under the facts of this case, there can be only one covering common to them all and there can be only one covering exterior to them all.

The foregoing, it seems to us, disposes of that interpretation of the court below whereby each tin box is held to be "an additional exterior covering." From the very nature of things there can be, under the facts, but one exterior covering for everything within that covering. The confusion arises, as before pointed out, from not looking at the wooden box or covering as a whole. It is not permissible to look at the wooden box as ten separate tin boxes, for, if it be so regarded, then those provisions of Rule 18 relating to the common exterior covering and the interior receptacles have lost completely their significance. The rule, by the very nature of its terms, regards the wooden box as the entity upon which, or the contents of which, duty is to be levied; and the descriptions of the articles which are dutiable or not dutiable within said wooden covering refer for their significance and meaning to the wooden covering itself. The words "interior" and "immediate" have no meaning apart from that which is "exterior" to all.

It having been demonstrated that there is only one common exterior covering and that one the wooden box or case, it necessarily follows that the tin boxes in question can not be in any sense a common or exterior covering. Being neither common nor exterior, they must, then, be either interior or immediate. In this case they can not be both. It is admitted by all that the cotton bags are the immediate coverings. The tin boxes can not, therefore, be immediate, as they and the cotton bags can not perform the same office at the same time. As a necessary result, the words "interior" and "immediate" can not have been meant by the statute to be synonymous. The words "all" and "receptacles" in the phrase "all interior or immediate receptacles," both in the plural, strengthen this conclusion. The result thus reached avoids rendering meaningless the phrase in question and doing violence to the

structure of the preceding paragraph of the statute.

The judgment of the court below is hereby reversed and the decision of the Insular Collector of Customs affirmed, without special finding as to costs of this instance.

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

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