

LEON J. LAMBERT & CO., PLAINTIFF AND APPELLEE VS. THE INSULAR COLLECTOR OF CUSTOMS, DEFENDANT AND APPELLANT.

G.R. No. 7989. August 27, 1913

Ponente: MORELAND, J.

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MORELAND, J.:

This is an appeal by the Collector of Customs from a judgment of the Court of First Instance in favor of Leon J. Lambert & Co., reversing the decision of the Collector of Customs of the port of Manila which overruled the company's protest against the classification of, and the assessment of duties upon, certain fountain pens. They were classified by the appraisers as "gold, manufactured into articles other than jewelry or plate," under paragraph 27 (d) of the Tariff Revision Law of 1905. The plaintiff claimed that they should be assessed as "hard rubber articles not especially provided for," under paragraph 352 (b). The contention of the plaintiff is "that rubber is the component material of chief value in these fountain pens."

In his decision affirming the classification of the appraisers the Collector of Customs said:

"The fountain pens in question are manufactured of hard rubber and gold and the appraiser found gold to be the component material of chief value. The importer claims that hard rubber is the material of chief value, and in support of his contention invites attention to the itemized values of the gold and rubber parts of the various styles of fountain pens as set forth on the commercial invoice filed with his protest and also in the consular invoice on file herein, which purports to show the hard rubber parts as being the material of chief value. * * * That said commercial invoice as well as the consular invoice is not that of the manufacturer or seller is shown by the fact that when samples of the complete pens were requested in connection with his protest, the samples were accompanied by what the importer admits to be a copy of the genuine commercial invoice from the manufacturer, the Paul E. Wirt Fountain Pen Company, of Bloomsburg, Pa., which shows all of the pens to be invoiced as entireties, the value of none of the components being given separately. The appraiser, with a view to determining the value of these and similar fountain pens, has thoroughly investigated the question, and after making careful calculations and comparisons of the prices of the parts of the various grades of pens turned out by said manufacturer, and also by referring to invoices and samples of products of other manufacturers of fountain pens, finds that fountain pens with gold or platinum points and rubber barrels, or similar pens with gold or gold and silver plated scroll work ornamentation on the barrel, are manufactured in chief value of gold."

It will be noticed that the question here is not so much one of classification as it is of value, it being admitted by all the parties to the controversy that the duty should be assessed upon the component material of chief value, and that in order to ascertain which is that component, the value of each component must be separately determined. Therefore, in deciding this case, under the facts and circumstances presented, we are governed not so much by the rules and principles governing classification as by those relating to the determination of value.

In the case of *Lim Quim vs. Collector of Customs* (23 Phil. Rep., 509), the court said, at page 511:

"The rule is well established that the value of merchandise fixed by the appraiser and affirmed by the Collector

of Customs is conclusive in the absence of an affirmative showing that the appraiser, in assessing the value, proceeded upon a wrong principle and contrary to law. (Robertson vs. Frank Brothers Company, 132 U. S., 17; Auffmordt vs. Hedden, 137 U. S., 310; Passavant vs. United States, 148 U. S., 214; Muser vs. Magone, 155 U. S., 240.)"

In that case the court also said: "The burden is upon the importer to overcome the presumption of a legal collection of duties by proof that their exaction was unlawful (Erhardt vs. Schroeder, 155 U. S., 124); and the importer must establish the illegality of the action of the appraisers in order to recover duties paid under protest. (United States vs. Ranlet and Stone, 172 U. S., 133, 146.)"

In its decision the lower court said: "The pens in question were originally invoiced assembled, and in determining the duty the appraiser at the customhouse found that the component part of chief value was the gold pen, and fixed the duty accordingly.

"In addition to the evidence appearing in the original record there are two other invoices of the fountain pens; one of those is made out at catalogue prices with 60 per cent discount and states nothing as to the relative values of the gold pens and the rubber cases.

"The oral testimony presented in the case is to the effect that a large part of the value of the pens is in the labor put into the rubber cases, and that such labor is a part of the value of the component material of chief value. The invoice is sworn to by the agent of the seller and in the absence of evidence to the contrary must be taken to be correct."

The learned court, in that part of its decision just quoted, does not lay down the rule quite as it should be. The invoice, although sworn to by the agent of the seller, is not conclusive as to the facts. If the customs authorities were bound by the invoice value, they would be seriously handicapped in the discharge of their duties. The law provides that "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 the Customs Administrative Act provides that "appraisers shall inspect, examine, and appraise by all reasonable ways and means all imported merchandise or dutiable merchandise for exportation which may be designated by the Collector of Customs, and report to the latter in writing" whether the prices named in the entry are correct according to the market value or wholesale price of similar goods on the day of shipment in the principal markets of the country whence exported."

In carrying out the provisions of the law the appraisers are not limited to the values stated in the invoice. They may use their own knowledge of values, they may make all reasonable investigations for the purpose of determining the value; and if it is their opinion that the values stated in the invoice are not the true values, they may reject them and assess the values according to their own judgment so made up. It is too well settled to admit of further discussion that the valuation of imported merchandise so arrived at is conclusive in the absence of fraud or illegality. (Muser vs. Magone, above.)

In determining the value of component materials going to make up a given article, the component materials should be taken at the time they are put together to form the completed article and not in the raw and unmanufactured condition in which the manufacturer received them. (Seeberger vs. Hardy, 150 U. S., 420.)

The appraisers classified the articles properly and correctly assessed their value.

The judgment is reversed and the decision of the Insular Collector of Customs affirming the appraisal of his subordinates is affirmed. So ordered.

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

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