

KUENZLE & STREIFF, PLAINTIFFS AND APPELLEES, VS. THE INSULAR COLLECTOR OF CUSTOMS, DEFENDANT AND APPELLANT.*G. R. No. 8019. September 24, 1915*

Ponente: JOHNSON, J.

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This is an appeal from the decision of the Collector of Customs. It appears from the record that the plaintiffs imported certain merchandise from Antwerp, Belgium. The fact that it was imported from Belgium is evidenced by the certificate of the American Consul-General at Antwerp. It was ascertained however from an examination of the merchandise that the same had been imported into Belgium, a part from Holland and a part from Germany. In the invoices furnished the Collector of Customs nothing was added to the value of the merchandise by reason of the necessary cost incurred in packing and shipping and the duty thereon charged for the purpose of importing it into Belgium. In other words, the invoice price seems to be the wholesale price at the place where the merchandise was manufactured for exportation, and not the price, including the cost of packing, shipping, and the duty, at which said merchandise would have to be sold at Antwerp in order to cover said additional cost.

The Collector of Customs, in order to cover the additional cost of packing, shipping, and customs duties, etc., increased the invoice price of said goods by 5 per cent in accordance with the provisions of Rule 13 of the department of customs in its relation with sections 16 and 18 of the Philippine Tariff Law of 1909.

Section 16 provides: "That all invoices of imported articles, goods, wares, or merchandise shall state the true value thereof in the currency of the place or country from whence imported, or, if purchased, in the currency actually paid therefor; shall contain a correct description of such articles, goods, wares, or merchandise, with true numbers, weights, and quantities, in the tariff terms of this Act, etc., etc." Section 18 provides: "That invoices required by the preceding section shall, at or before the shipment of the merchandise, be produced to the consul, vice-consul, or commercial agent of the United States of the consular district in which the merchandise was manufactured or purchased, as the case may be, when importation into the Philippine Islands is from a country other than the United States of America, or any territory or place under the jurisdiction and control of the Government thereof: Provided, That the Insular Collector of Customs, may, in his discretion, dispense with the requirement for the consular invoices prescribed in this section in case the merchandise for which entry is sought is free of duty under this Act, etc., etc."

"Invoices shall have endorsed thereon when produced as above prescribed a declaration signed by the purchaser, manufacturer, seller, owner, or agent, setting forth that the invoice is in all respects correct and true and was made at the place from whence the merchandise is exported to the Philippine Islands; that it contains, if the merchandise was obtained by purchase, a true and full statement of the time when, the place where, the person from whom the same was purchased, and the actual cost thereof and of all charges thereon, etc., etc."

Rule 13 provides: "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 * * * including the value of all cartons,

cases, crates, boxes, sacks, and coverings 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."

In the appeal from the decision of the Collector of Customs to the Court of First Instance of the city of Manila, the Honorable Simplicio del Rosario reached the conclusion that the Collector of Customs was without authority to increase the invoice price of the merchandise in question by 5 per cent; that he should have assessed the duty upon the invoice price of said merchandise. From that decision the Collector of Customs appealed to this court and made the following assignments of error: "(First.) The court erred in not holding that the duties imposed in Belgium on goods manufactured in Germany and Holland form a part of the dutiable value of goods upon their importation into the Philippine Islands from Antwerp, Belgium. (Second.) The court erred in reversing the decision of the Insular Collector of Customs in this case. (Third.) The court erred in not granting a new trial on motion of the Collector of Customs."

It is sufficient to examine the first assignment of error. With reference to the first assignment of error, we believe that certain propositions of law relating to the appraisement of imported merchandise in the Philippine Islands are well established. (First.) It is the duty of the Collector of Customs to appraise or fix the value of imports for the purpose of assessing the duty thereon. (Second.) In such appraisement he must fix the wholesale market price in or at the place of exportation. (Third.) If the imported merchandise is not exported from the point of manufacture or production, then the cost of shipping, packing, etc. from the point of manufacture or production to the point of exportation must be added to the wholesale or market price at such point. (See sees. 16 and 18 of the Tariff Law of 1909, and Rule 13.) (Fourth.) If the importer fails to add the items of additional cost mentioned in paragraph "C" above, then the Collector of Customs may add a reasonable percentage to the wholesale or market price, at the point of production or manufacture, sufficient to cover said additional cost of transportation, etc. etc. in order to ascertain the wholesale or market value at the point of exportation. (See sees. 16 and 18 of the Tariff Law of 1909, and Rule 13 above cited; U. S. vs. Passavant, 169 U. S., 16; Muser vs. Magone, 155 U. S., 240; Rheinstrom vs. U. S., 118 Fed. Rep., 303.)

From the foregoing quoted provisions of the Tariff Law of 1909 it would seem to be clear that the Collector of Customs, when the importer fails to add the cost of packing, shipping, etc. under circumstances like those in the present case, has a perfect right to add a reasonable per cent to the wholesale market price at the point of manufacture or production in order to fix the price of the merchandise for the purposes of collecting the tariff. No objection is made upon the ground that the 5 per cent added was in excess of such additional charges or costs. After a careful consideration of the record and the law applicable to the facts in the present case, and without discussing the other assignments of error, we are of the opinion and so hold that the judgment of the lower court should be revoked and, without any finding as to costs, it is so ordered.

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

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