

This was an appeal by the Fleming Cement & Brick Company from a decision of the board of general appraisers in regard to the classification for duty of certain brick imported by them.

Stephen G. Clarke, for appellant.

Henry C. Platt, Asst. U. S. Atty.

WHEELER, District Judge. The tariff act of 1894 provides for a duty on "(77) magnesian fire brick." These are magnesian brick, but are not fire brick, and so are not magnesian fire brick, and are not assessable according to the protest under this paragraph. Decision affirmed.

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PARK et al. v. UNITED STATES.

(Circuit Court, S. D. New York. December 9, 1897.)

No. 2,595.

CUSTOMS DUTIES—CLASSIFICATION—FRUIT JUICE.

Strawberry and raspberry fruit juice, containing no alcohol, was dutiable, under paragraph 247 of the act of 1894, as "other fruit juices, not specially provided for," containing 18 per cent. or less of alcohol.

This was an appeal by Park & Tilford from a decision of the board of general appraisers in respect to the classification for duty of certain merchandise imported by them.

Edward Hartley, for appellants.

Henry D. Sedgwick, Jr., Asst. U. S. Atty.

WHEELER, District Judge. This is strawberry and raspberry fruit juice, containing no alcohol. It was assessed, under paragraph 247 of the act of 1894, which provides for—

"Cherry juice and prune juice, or prune wine, and other fruit juices not specially provided for in this act, containing eighteen per centum, or less, of alcohol, fifty cents per gallon."

This is claimed not to come under this description, because it contains no alcohol, but that it is a nonenumerated manufactured article. No alcohol at all is less than 18 per centum of alcohol, and makes this article come within the division provided for in that paragraph. It is a fruit juice. It contains less than 18 per centum of alcohol. Decision affirmed.

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JACOT et al. v. UNITED STATES.

(Circuit Court, S. D. New York. December 9, 1897.)

No. 2,476.

CUSTOMS DUTIES—RELIQUIDATION.

Certain goods were imported in 1893, and the duties were liquidated and paid. One case of goods of the same invoice went to a bonded warehouse, and was withdrawn for consumption, under the act of 1894, and the duties on that case were reassessed at a reduced rate, under the latter act. The

duties of the whole invoice were then added anew, without other changes, and the entry was stamped as reliquidated at that date. *Held*, that this action was not subject to protest, as a new assessment and reliquidation.

This was an appeal by Jacot & Son from a decision of the board of general appraisers in respect to a protest against an alleged reassessment and reliquidation as to certain merchandise imported by that firm.

Everit Brown, for appellants.

Henry C. Platt, Asst. U. S. Atty.

WHEELER, District Judge. These goods were imported in 1893, and the duties were liquidated and paid. One case of the goods of the same invoice went to a bonded warehouse, and was withdrawn for consumption, under the act of 1894, and the duties on that case were reassessed at a reduced rate, according to the provisions of that act. The duties of the whole invoice were then added anew, but no change was made in any but those upon that case, and the entry was stamped as reliquidated at that date. The importers protest against that as a new assessment and reliquidation of the whole invoice. But nothing whatever was done about the rate or classification of the goods in question, or any but those withdrawn from the bonded warehouse. Neither the adding up of these duties to obtain new totals, nor stamping the invoice as reliquidated, affected them in any way, and there was nothing then in regard to them to protest against. Decision affirmed.

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UNITED STATES v. WATSON et al.

(Circuit Court, S. D. New York. December 9, 1897.)

No. 1,232.

CUSTOMS DUTIES—CLASSIFICATION—PEARL HARDENING.

Pearl hardening, an artificial sulphate of lime, obtained by precipitated carbonate of lime with dilute sulphuric acid, was dutiable, under the act of 1890 as a nonenumerated manufactured article, and not under paragraph 97 as "plaster of Paris, or gypsum ground."

This was an appeal by the United States from a decision of the board of general appraisers in respect to the classification for duty of certain merchandise imported by Watson & Co.

Henry D. Sedgwick, Jr., Asst. U. S. Atty.

Stephen G. Clarke, for appellees.

WHEELER, District Judge. This importation is pearl hardening. The report of the assistant appraisers shows:

"It is an artificial sulphate of lime obtained by precipitated carbonate of lime with dilute sulphuric acid. The carbonate of lime, from which this article is manufactured, is a by-product obtained in the manufacture of soda ash."

It has been classified under paragraph 97 of the tariff act of 1890 as "plaster of Paris, or gypsum ground." It is not plaster of Paris, or gypsum ground, but a nonenumerated manufactured article, as claimed by the collector. Decision reversed.