OPPENHEIMER v. UNITED STATES.

(Circuit Court, S. D. New York. December 13, 1898.)

No. 2,134.

1. CUSTOMS DUTIES—CHANGE OF LAW—DATE OF IMPORTATION.
Where goods were entered on August 27, 1894, but were in the custody of the government on the 28th, they must be treated as imported on the 28th, and are dutiable under the act of August 27th.

2. SAME—MANUFACTURES OF WOOL—GOODS OF MOHAIR.
Goods made of mohair yarn, which is made from the hair of the Angora goat, imported on August 28, 1894, are subject to duty under the tariff act of August 27, 1894. Such articles cannot be considered as manufactures of wool, on which the reduction of duties made by such act were postponed, though the material is known commercially as "ice wool," in view of the fact that it has been separately provided for in several tariff acts.

This is an appeal by H. Oppenheimer from a decision of the board of general appraisers affirming a classification for duty of certain imported merchandise.

Stephen G. Clarke, for importer.
J. T. Van Rensselaer, Asst. U. S. Atty.

TOWNSEND, District Judge (orally). The articles in question are shawls, commercially known as "ice-wool squares or shawls," made of ice wool or mohair yarn, which yarn is made from the hair of the Angora goat. It appears that while the goods were entered at the port of New York on August 27, 1894, they were actually in the custody of the United States government on August 28th; and therefore, as to this branch of the case, the court is governed by the rule laid down in U. S. v. E. L. Goodsell Co., 28 C. C. A. 453, 84 Fed. 439, and the goods must be treated as imported on August 28, 1894. The collector classified the articles for duty under the act of 1890, before the Goodsell decision, supposing at that time that the goods had actually been imported on August 27th.

The first contention of the government is that these articles are made of wool, because the material is commercially known as "ice wool"; but I do not think this contention is supported, in view of the fact that these words are often used without any such signification, as in the case of articles commercially known as "mineral wool," "cotton wool," or "ice cream." It may be true, as contended by counsel for the government, that in common meaning and speech the mohair, or hair of the Angora goat, is not differentiated from wool; but in view of the fact that this hair has been separately provided for in various tariff acts, in view of the contemporaneous and subsequent construction of this act by the board of appraisers at the port of New York, and especially in view of the reasoning of the court in the case of U. S. v. Klumpp, 169 U. S. 209, 18 Sup. Ct. 311, it cannot be assumed that congress intended to postpone the reduction of the rates of duty on manufactures of the hair of the Angora goat; and the decision of the board of appraisers is, therefore, reversed.

WORTHINGTON et al. v. UNITED STATES.

(Circuit Court, S. D. New York. December 16, 1898.)

No. 1,792.

1. CUSTOMS DUTIES—CLASSIFICATION—METALLIC PINS.
Fancy pins, with metal shafts, and metal, glass, or paste heads, are dutiable under paragraph 206 of the tariff law of 1890, as "pins, metallic," and not under paragraph 108, as "manufactures of which glass is the component of chief value, not specially provided for"; paragraph 206 containing no exception of "pins otherwise provided for."

2. SAME—HAT ORNAMENTS OF PASTE.
Millinery or hat ornaments composed chiefly in value of paste, in the form of so-called "Rhinestones," their remaining material being metal backs and frames to hold the paste stones, are dutiable under paragraph 459 of the tariff law of 1890, as manufactures of which paste is the component of chief value, not specially provided for, and not under paragraph 108, as manufactures of which glass is the component of chief value, not specially provided for, nor under paragraph 452, as articles of jewelry.

This is an appeal by Worthington, Smith & Co. from a decision of the board of general appraisers in affirming the classification for duty of certain imported articles of merchandise.

Albert Comstock, for importers.
J. T. Van Rensselaer, Asst. U. S. Atty.

TOWNSEND, District Judge. The evidence in this case shows without dispute that the merchandise covered herein, which was imported under the tariff act of 1890, consisted of fancy pins, with metal shafts, and metal, glass, or paste heads, and of millinery or hat ornaments, composed chiefly in value of paste, in the form of so-called "Rhinestones"; their remaining material being metal backs and frames to hold the paste stones. Duty was assessed on all these goods at 60 per cent., as manufactures of which glass is the component of chief value, not specially provided for, under paragraph 108 of the act in question. The importers claim that the pins were dutiable at 30 per cent. only, under paragraph 206, as "pins, metallic," irrespective of the component of chief value, and that the other articles were dutiable at 25 per cent. only, under paragraph 459, as manufactures of which paste is the component of chief value, not specially provided for. It was decided by this court in U. S. v. Wolff, 69 Fed. 327, that pins with metal shafts were "pins, metallic," in the sense of paragraph 206, and the evidence in the present case fully supports that conclusion. As the paragraph is unqualified by any exception of such pins "otherwise provided for," all such are dutiable thereunder, however much they might otherwise meet the provisions of paragraph 108, or any other part of the act.

As to the other articles, the proof shows that they are not composed in any part of glass, except in such sense as "paste" may be glass; the evidence showing that paste is the component of chief value. But congress has long discriminated between paste and glass in tariff acts, and the provision cited by the appellants is, as between that and paragraph 108, the only one applicable to the goods under discussion. If, however, these articles are jewelry, there is a paragraph (452) which