

## SLAZENGER et al. v. UNITED STATES.

(Circuit Court, S. D. New York. January 18, 1899.)

Nos. 2,642 and 2,730.

## CUSTOMS DUTIES—CLASSIFICATION—INDIA RUBBER TENNIS BALLS.

Tennis balls of India rubber, covered with light felt of wool, the rubber being the component material of chief value, were dutiable under paragraph 352 of the act of 1894.

This was an application by Slazenger & Sons for a review of a decision of the board of general appraisers in respect to the classification for duty of certain tennis balls imported by them.

W. Wickham Smith, for appellants.

D. Frank Lloyd, Asst. U. S. Atty.

WHEELER, District Judge. These are tennis balls of India rubber covered with light felt of wool. The India rubber is shown to have been the component material of chief value, and they appear to have been dutiable under paragraph 352, Act 1894, as claimed by the importer. A description of goods of which India rubber is the component material of chief value seems to be more specific than one of goods of which India rubber is a component material generally, without regard to proportional value. *Hartranft v. Meyer*, 135 U. S. 237, 10 Sup. Ct. 751. Decision reversed.

## RICHARD et al. v. UNITED STATES.

(Circuit Court, S. D. New York. January 19, 1899.)

No. 2,135.

## CUSTOMS DUTIES—CLASSIFICATION—PAINTINGS ON TILES.

Articles composed of several tiles put together in rows, their faces forming a surface on which a picture is sketched by free-hand with brown mineral paint prepared with oil or water, which is then fired, and by vitrification made blue, the whole being then framed, were not dutiable as "tiles," under paragraph 94 of the act of 1890 (26 Stat. 570), but were included in the description "paintings, in oils or water colors," contained in paragraph 465 (Id. 602).

This was an application by Richard & Co. for a review of a decision of the board of general appraisers in respect to the classification for duty of certain goods imported by them.

Albert Comstock, for appellants.

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

WHEELER, District Judge. The act of 1890 provides for duties on:

"94. Tiles, and brick, other than fire-brick, not glazed, ornamented, painted, enameled, vitrified, or decorated, twenty-five per centum ad valorem; ornamented, glazed, painted, enameled, vitrified, or decorated, and all encaustic, forty-five per centum ad valorem." 26 Stat. 570.

"100. China, porcelain, parian, bisque, earthen, stone and crockery ware, including plaques, ornaments, toys, charms, vases, and statuettes, painted, tinted, stained, enameled, printed, gilded, or otherwise decorated or ornamented

in any manner, sixty per centum ad valorem; if plain white, and not ornamented or decorated in any manner, fifty-five per centum ad valorem." Id. 571.

"465. Paintings, in oil or water colors, and statuary, not otherwise provided for in this act, fifteen per centum ad valorem." Id. 602.

These articles in question are each composed of several tiles put together in rows, their faces forming a surface on which a picture is sketched by free-hand with brown mineral paint prepared with oil or water, which is fired, and by the vitrification made blue, and framed. They were classified as decorated tiles, under paragraph 94, and assessed at 45 per cent. The appellants protested that they were paintings, under paragraph 465, and should be assessed at only 15 per cent. The board affirmed the classification of the collector. Additional evidence has been taken, from which these facts are made to more clearly appear.

The tiles of paragraph 94 would seem to be those which had remained such, and were capable of use singly, and not manufactures of tiles, or of which they were a component material; and decorated tiles would seem to be the same when each was decorated singly. These pictures had tiles put together for a groundwork, on which they could be fired. They could not be used for tiles, and had become another thing. The picture did not decorate the tiles on which it was painted as such, for they were no longer tiles as such; and, if they had been taken apart, the picture would be broken, and the part on each would not be a decoration, but a fragment of something else. The parts of these pictures that had been tiles before do not, in this view, appear to have been tiles simply, or tiles decorated or painted. These articles do not appear to be ware, and so not any of the specified kinds of ware, nor any of the things included with them, of paragraph 100; and perhaps they are not intended now to be claimed as such, although some others classified with them, but not now in question, were, and all have been treated together in the government's brief. The principal other question is whether they were so paintings in oil or water colors, within paragraph 465, as to sustain the protest. Upon the evidence, they would not appear to have been known in commerce as "oil paintings" or "water-color paintings"; but those are not the words of the statute. If they were in fact paintings in oil or water colors, they might come within the statute, although not commercially known as such, as they were not otherwise provided for in either paragraph 94 or 100, and are not suggested to have been anywhere else. By "oil colors" or "water colors" cannot have been intended colors given by oil or water, but only colors mixed with one or the other for a vehicle. What the color should be, or what from, or what the foundation should be, was not made material; and that it was a mineral color on fireproof backing, and changed by vitrification in firing, would seem to make no difference. *Arthur v. Jacoby*, 103 U. S. 677. Decision reversed.

## VANTINE et al. v. UNITED STATES.

(Circuit Court, S. D. New York. January 18, 1899.)

No. 2,690.

## CUSTOMS DUTIES—VALUATION—INTERNAL TRANSPORTATION CHARGES.

Internal transportation charges for getting the goods from the place of manufacture to the place of shipment, even if not dutiable elements of market value, become a part of the entered value when they are included in the entry as a part of the market value because that was thought to be the best way, without indicating that such inclusion was objected to. In such case the charges form an indisputable part of the entered value, which the collector cannot reduce.

This was an application by Vantine & Co. for a review of a decision by the board of general appraisers in respect to the duty on certain goods imported by them.

Edward Hartley, for appellants.

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

WHEELER, District Judge. These internal transportation charges for getting the goods from the place of manufacture to the place of shipment may not be dutiable elements of market value; but they appear to have been included in the entry as a part of that value because that was thought to be the best way, in view of former proceedings, without indicating in any way that now they were objected to. They appear to so have become an undisputed part of the entered value, which the collector could not reduce. That distinguishes this case from *Robertson v. Frank*, 132 U. S. 17, 10 Sup. Ct. 5, where the transportation charges were inserted in the entry as being required by the appraiser, and the jury found that this was done by compulsion in making that entry, and not because that was thought, in the language of the charge, to be the best way. Decision affirmed.

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UNITED STATES v. E. L. GOODSSELL CO.

(Circuit Court of Appeals, Second Circuit. January 5, 1899.)

No. 34.

## CUSTOMS DUTIES—CLASSIFICATION—ORANGE BOXES—REIMPORTED.

Boxes containing oranges and lemons, the sides, tops, and bottoms of which are in fact of American growth and manufacture, and which were exported as shooks, cannot be deprived of the benefit of the proviso to paragraph 216 of the tariff act of 1894, under which they are entitled to re-entry, when filled, on payment of half-rate duties, merely because proof of such facts is not made in the particular mode prescribed by the treasury regulations.

Appeal from the Circuit Court of the United States for the Southern District of New York.

The cause comes here upon appeal from the decision of the circuit court, Southern district of New York (84 Fed. 155), affirming decision of the board of general appraisers which reversed decision of the collector of the port of New York touching classification for duty of certain boxes containing oranges