

WHEELER, District Judge. By paragraph 14 of the act of 1894, coal-tar colors or dyes, by whatever name known, are dutiable at 25 per cent.; and, by paragraph 368, alizarin, and alizarin colors or dyes, natural or artificial, are free. This merchandise appears to have been entered for duty as an alizarin color, and to have been returned by the appraiser as a coal-tar color. Duties were assessed upon it according to the return, notwithstanding a protest that it was free under paragraph 368. On appeal, one of the importers testified that he was told it was an alizarin color, but on cross-examination he said in fact it was a color or dye, although used with a mordant, and was a product of coal tar; that it takes the place of gallocyanine, which is defined as a coal-tar color, and is a faster product. On this evidence, the board could well find that it was a coal-tar color or dye, although that it is used with a mordant might raise a doubt whether it was not an alizarin. There has been, however, further evidence taken, upon which the finding is changed. Decision reversed.

UNITED STATES v. STERN et al.

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

No. 2,739.

CUSTOMS DUTIES—CLASSIFICATION—FLAX PLUSH.

Flax plush is dutiable as a "pile fabric of which flax is the component material of chief value," under paragraph 342 of the act of 1897, and not as plush or pile fabric "of cotton or other vegetable fiber," under paragraph 315; the former paragraph being more specific than the latter.

This was an application by the United States for the review of the decision of the board of general appraisers in respect to the classification for duty of certain merchandise imported by Stern Bros.

James T. Van Rensselaer, Asst. U. S. Atty.

W. Wickham Smith, for appellees.

WHEELER, District Judge. Paragraph 315 of the act of 1897 provides for a duty on "plushes, velvets, velveteens, corduroys and all pile fabrics * * * composed of cotton or other vegetable fiber," and paragraph 342 for a different duty on "all pile fabrics of which flax is the component material of chief value." The merchandise is flax plush, and plush is a pile fabric, and flax vegetable. It would fall under paragraph 315, as a plush of vegetable fiber, but for the provision in 342 for a particular kind of vegetable fiber in such fabrics. This is more specific. Decision of board reversed.

UNITED STATES v. UTARD.

(Circuit Court, S. D. New York. January 21, 1899.)

No. 2,543.

CUSTOMS DUTIES—CLASSIFICATION—SMELLING SALTS.

Perfumed smelling salts were dutiable as chemical salts, under paragraph 60 of the act of 1894 (28 Stat. 511), and not as articles of perfumery, under paragraph 61.

This was an application by the United States for a review of the decision of the board of general appraisers in respect to the classification for duty of certain imported merchandise.

Albert Comstock, for appellant.

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

WHEELER, District Judge. These are perfumed smelling salts, and have been held by the board of general appraisers to be dutiable, as chemical salts, at 25 per cent., under paragraph 60 of the act of 1894 (28 Stat. 511). They were claimed to be dutiable, as "articles of perfumery," at 40 per cent., under paragraph 61, and that they are covered by ammonia, in paragraph 8½ is now suggested. Articles of perfumery are understood to be things that perfume other things; these are things so perfumed. And they seem so well found to be specifically chemical salts that the finding should stand. Decision affirmed.

DANA et al. v. UNITED STATES.

(Circuit Court, S. D. New York. January 21, 1899.)

No. 2,550.

1. CUSTOMS DUTIES — CLASSIFICATION — REVIEW OF BOARD OF GENERAL APPRAISERS—SIMILITUDES.

A finding by the board of general appraisers that an article is or is not similar to another article, within the similitude clause of the tariff act, is a conclusion of law rather than one purely of fact, and is therefore reviewable by the courts.

2. SAME—FERRO-CHROME.

Ferro-chrome was dutiable under the act of 1894 at four dollars per ton, as being an article similar to ferro-manganese, provided for in paragraph 110.

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

W. Wickham Smith, for appellants.

James T. Van Rensselaer, Asst. U. S. Atty.

WHEELER, District Judge. The act of 1894 provided for duty on: "110. Iron in pigs, iron kentledge, spiegeleisen, ferro-manganese, ferro-silicon, wrought and cast scrap iron, and scrap steel, four dollars per ton." Section 4 provides that any nonenumerated article which is