Marvel Vs. Merritt

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Court : US Supreme Court

Decided On : Dec-14-1885

Appeal No. : 116 U.S. 11

Appellant : Marvel

Respondent : Merritt

Judgement :

Marvel v. Merritt - 116 U.S. 11 (1885)
U.S. Supreme Court Marvel v. Merritt, 116 U.S. 11 (1885)

Marvel v. Merritt

Argued November 23, 1885

Decided December 14, 1885

116 U.S. 11

ERROR TO THE CIRCUIT COURT OF THE UNITED

STATES FOR THE SOUTHERN DISTRICT OF NEW YORK

SYLLABUS

Iron ore is subject to the duty of twenty percent *ad valorem* imposed by Rev.Stat. § 2504 upon "Mineral and bituminous substances in a crude state not otherwise provided for."

The facts are stated in the opinion of the Court.

MR. JUSTICE MATTHEWS delivered the opinion of the Court.

The plaintiff in error brought his action to recover duties paid by him and exacted, as he claims, in excess of those imposed by law, upon certain quantities of iron ore imported by him into the port of New York in 1879.

The single question involved in the suit arose under the Tariff Act of 1874, being Title XXXIII, Rev.Stat.

The plaintiff was assessed and compelled to pay a duty of 20 percent *ad valorem* on his importations, as coming within the provision in Schedule M, "sundries," Rev.Stat. § 2504, for "mineral and bituminous substances in a crude state not otherwise provided for." He claimed that iron or was dutiable upon a proper classification as "an unmanufactured article not herein enumerated or provided for," and subject only to a duty of ten percent *ad valorem* under the provisions of § 2516 of the Revised Statutes. On the trial below, the plaintiff offered evidence to show that iron ore was known to the trade commercially only under that name, and that scientifically considered, it was a metallic and not a mineral substance, but the offer was rejected by the court. It was proven that iron ore was not a bituminous substance.

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The court instructed the jury, there being no disputed question of fact arising upon the evidence as admitted, to return a verdict for the defendant. Judgment was rendered thereon accordingly, to reverse which this writ of error has been brought.

The Tariff Act of 1874, Rev.Stat. Title XXXIII, under which this case arises, does not expressly enumerate iron ore as the subject of duty. It is not on the free list,

and is to be found, if at all, classified under some general description. The language in Schedule M, "Sundries," Rev.Stat., 2d Ed., 478, is: "Mineral and bituminous substances in a crude state, not otherwise provided for, twenty percent *ad valorem.* " This is to be taken distributively, so as to cover all substances within the description, whether mineral or bituminous or both, and is not to be confined to those which combine both characters.

The words used are not technical, either as having a special sense by commercial usage or as having a scientific meaning different from their popular meaning. They are the words of common speech, and as such, their interpretation is within the judicial knowledge, and therefore matter of law. Webster, in his Dictionary, defines the noun "mineral" as "any inorganic species having a definite chemical composition," and "ore" as "the compound of a metal and some other substance, as oxygen, sulphur, or arsenic, called its "mineralizer," by which its properties are disguised or lost." The word "mineral" is evidently derived from "mine," as being that which is usually obtained from a mine, and accordingly Webster defines the latter as

"a pit or excavation in the earth from which metallic ores or other mineral substances are taken by digging, distinguished from the pits from which stones only are taken, and which are called quarries."

The importations of iron ore in question therefore were properly subjected to a duty of twenty percent *ad valorem* as a mineral substance in its crude state not otherwise provided for.

The judgment of the circuit court is accordingly

Affirmed.