

Pierce Vs. United States

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Court : US Supreme Court

Decided On : Feb-24-1914

Appeal No. : 232 U.S. 290

Appellant : Pierce

Respondent : United States

Judgement :

Pierce v. United States - 232 U.S. 290 (1914)

U.S. Supreme Court Pierce v. United States, 232 U.S. 290 (1914)

Pierce v. United States

No. 64 and 623

Argued January 6, 7, 1914

Decided February 24, 1914

232 U.S. 290

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES

FOR THE SOUTHERN DISTRICT OF NEW YORK

SYLLABUS

Billings v. United States, ante, p. [232 U. S. 261](#) , followed and distinguished, to the effect that the owner of a foreign-built yacht is not liable for the tax imposed by 37 of the Tariff Act of 1909 if the yacht was not actually used at all during the preceding year.

190 F. 359, reversed.

The facts are stated in the opinion.

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MR. CHIEF JUSTICE WHITE delivered the opinion of the Court.

These two cases involve the liability of the plaintiff in error in No. 64 for a tax on the foreign-built yacht *Yacona*, which became due on the first of September, 1909. The complaint in every substantial particular was identical with that filed in the *Billings* case this day decided, and this is true also of the defenses set up in the answer, except that the answer in this case contained this distinct averment which was not in the *Billings* case:

"That the said yacht *Yacona* was not in use by the defendant or by any other person at any time during the year next preceding the first day of September, 1909, but was out of commission in the State of New York, throughout the whole of such year."

The case was submitted on bill and answer, and the liability for the tax, which was upheld by the court below, was rested upon the construction as to potential use -- that is, a tax on the privilege of using -- which we decided in the *Billings* case to be unsound. In this case, as in that, the certificate is concerned with a writ of error prosecuted by the United States to the circuit court of appeals because of the rejection of a prayer for interest. Treating both the cases in this instance as one, as we did in the previous cases, and applying to this the construction which we have given the statute in those cases, it follows that the judgment below was

wrong, and must be reversed, with direction to dismiss the complaint.

And it is so ordered.

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