

152 F. 163

Circuit Court of Appeals, Second Circuit.

HILLHOUSE

v.

UNITED STATES.

Nos. 90, 3,751.

|

January 7, 1907.

Synopsis

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

This cause comes here upon appeal from a decision of the Circuit Court, Southern District of New York, 142 Fed. 303, affirming a decision of the Board of General Appraisers, G.A. 5,849, T.D. 25,768, which sustained the collector of the port of New York, in assessing duty on an automobile of foreign manufacture under the tariff act of 1897.

West Headnotes (3)

[1] Customs Duties  Construction as to Classification of Goods

In applying a tariff law, a single article may be constructively separated into parts subject to different classifications.

[3 Cases that cite this headnote](#)

[2] Customs Duties  Personal and Household Effects of Persons Arriving in United States

Held that an automobile should not be excluded from importation free of duty as household effects used abroad more than one year, under Tariff Act July 24, 1897, c. 11, § 2, Free List, par. 504, 30 Stat. 196, by reason of having been extensively repaired shortly before importation. So much of the machine as is a new manufacture may be assessed with duty; but the rest, including the cost of overhauling, oiling, cleaning, readjusting, and regulating, is free under said paragraph.

[13 Cases that cite this headnote](#)

[3] Customs Duties  Personal and Household Effects of Persons Arriving in United States

The provision for household effects “used abroad * * * not less than one year,” in Tariff Act July 24, 1897, c. 11, § 2, Free List, par. 504, 30 Stat. 196, is satisfied if the periods of such use aggregate one year, even though not continuous.

[8 Cases that cite this headnote](#)

Attorneys and Law Firms

*163 Walden & Webster (Howard T. Walden, of counsel), for importer.

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

Before LACOMBE, TOWNSEND, and COXE, Circuit Judges.

Opinion

LACOMBE, Circuit Judge.

Duty was assessed under paragraph 193, as an article wholly or in part of iron or steel or other metal, at 45 per cent. ad valorem. It is not disputed that, if dutiable at all, it should be under this paragraph. The only claim made here- the importer has abandoned others which were set forth in the protest and discussed by the board- is that the automobile is entitled to free entry under-

‘Par. 504. Books, libraries, usual and reasonable furniture, and similar household effects of persons or families from foreign countries, all the foregoing if actually used abroad by them not less than one year, and not intended for any other person or persons, nor for sale.’ Act July 24, 1897, c. 11, Sec. 2, Free List, par. 504, 30 Stat. 196 (U.S. Comp. St. Supp. 1901, p. 1683).

*164 The Supreme Court, in *Arthur v. Morgan*, 112 U.S. 495, 5 Sup.Ct. 241, 28 L.Ed. 825, held that carriages were properly classified as household effects, and we see no reason why automobiles should not be similarly disposed of. The Board of General Appraisers disposed of this claim by finding that there was no satisfactory proof that the machine had been

used abroad for a year. This defect of proof was supplied in the circuit; and it now appears that after its purchase in October, 1901, it was used abroad for four months, was then brought here (duty being paid on it) and used until August, 1903, and then taken abroad and used more than nine months in Europe. The act does not require continuous use abroad; and it was conceded in the Circuit Court (and is conceded here) that the automobile was actually used abroad by the owner for more than one year, and was not intended for any other person or for sale. It appears, however, that extensive repairs were made upon it shortly before its second shipment to this country. The judge at circuit found that 'the motor had been overhauled, new parts substituted in place of old, and the body had been repaired and newly upholstered.' He held:

'A new manufacture, in part at least, would seem to have been the result. If the repairing had consisted simply of painting and adjusting parts of the machine which had become impaired and defective by reason of its ordinary use, a more liberal construction of the provision of the tariff act would be justified.'

And he affirmed the board, which had sustained an assessment on the full value of the machine, 10,000 francs.

We concur in part only in this conclusion. As to so much of the machine as was a new manufacture which had not been used abroad for a year, duty was properly exacted; but when the value of such new manufacture is easily determinable there seems no good reason for requiring so much of it as has been used abroad for the requisite time to pay duty also. In the case at bar it appears that the total cost of the overhauling and repairs was 2,989.55 francs, of which 489.55 francs was paid for such work as overhauling, oiling, cleaning, readjusting, and regulating. Upon the balance only, 2,500 francs, should duty as 'manufactures of metal,' etc., be assessed.

The decision is reversed.

All Citations

152 F. 163, 81 C.C.A. 415

Negative Treatment


Negative Citing References (1)

The KeyCited document has been negatively referenced by the following events or decisions in other litigation or proceedings:



Treatment	Title	Date	Type	Depth	Headnote(s)
Declined to Extend by	1. U.S. v. Auto Import Co. MOST NEGATIVE 168 F. 242 , C.C.A.2 (N.Y.) Appeals from the Circuit Court of the United States for the Southern District of New York. The Circuit Court reversed decisions by the Board of United States General Appraisers,...	Feb. 16, 1909	Case		—

History (3)

Direct History (3)

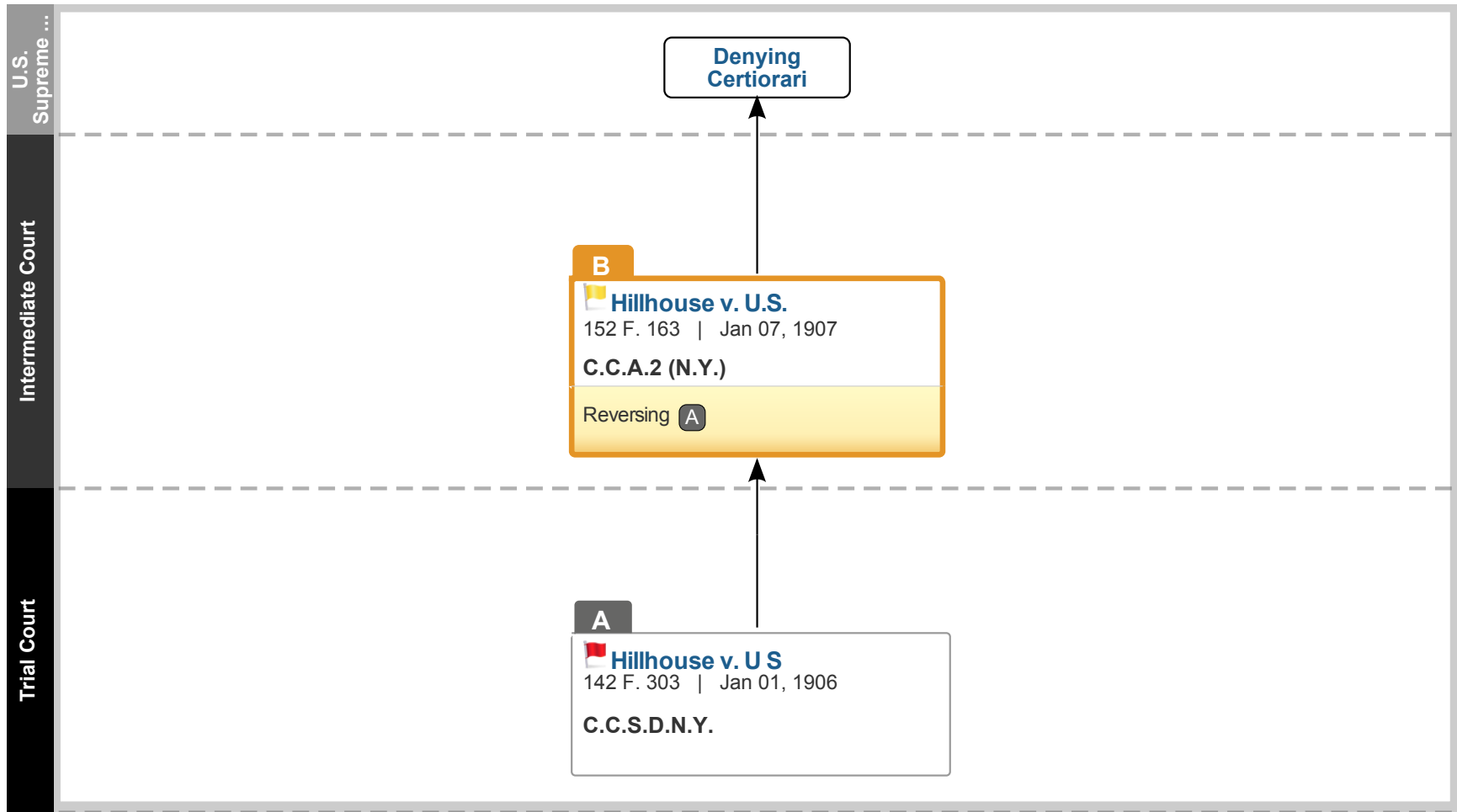
 1. [Hillhouse v. U S](#)
142 F. 303 , C.C.S.D.N.Y. , 1906

Reversed by

 2. [Hillhouse v. U.S.](#) 
152 F. 163 , C.C.A.2 (N.Y.) , Jan. 07, 1907

Certiorari Denied by

3. [U.S. v. Hillhouse](#)
208 U.S. 615 , U.S.N.Y. , Jan. 20, 1908



Citing References (14)

Treatment	Title	Date	Type	Depth	Headnote(s)
Examined by	1. Parrot v. U.S. 1951 WL 5459, *3+ , Cust.Ct. American goods returned—Included in value of foreign-built yacht	Mar. 06, 1951	Case		—
Discussed by	2. U.S. v. Bomar 8 F.3d 226, 233+ , 5th Cir.(Tex.) Garageman was convicted in the United States District Court for the Southern District of Texas, Melinda Harmon, J., of violating Soldiers' and Sailors' Civil Relief Act by...	Nov. 16, 1993	Case		—
Discussed by	3. Pramette Juvenile Furniture Co. v. U.S. 1948 WL 5146, *2+ , Cust.Ct. Children's all-metal go-carts or strollers	May 28, 1948	Case		—
Declined to Extend by NEGATIVE	4. U.S. v. Auto Import Co. 168 F. 242, 243+ , C.C.A.2 (N.Y.) Appeals from the Circuit Court of the United States for the Southern District of New York. The Circuit Court reversed decisions by the Board of United States General Appraisers,...	Feb. 16, 1909	Case		—
Cited by	5. U.S. v. W.R. Grace & Co. 166 F. 748, 748 , C.C.A.2 (N.Y.) Appeal from the Circuit Court of the United States for the Southern District of New York. The Circuit Court affirmed, without opinion, a decision by the Board of United States...	Jan. 12, 1909	Case		—
Cited by	6. Parrot v. U S 1952 WL 5926, *4+ , Cust. & Pat.App. Appeal from United States Customs Court, C. D. 1308 [Affirmed.]	May 28, 1952	Case		—
Cited by	7. J.D. Richardson Co. v. U.S. 1947 WL 5197, *7 , Cust.Ct. American goods returned—Construction—Articles exported for alterations Wheel rims intended for use on the General Pershing tank, which rims had been shipped to Canada in order to...	May 21, 1947	Case		—
Cited by	8. Raybestos Co. v. U.S. 1924 WL 26656, *2+ , Cust.App. Appeal from Board of United States General Appraisers, G. A. 8790 (T. D. 40163) [Affirmed.]	Nov. 04, 1924	Case		—
Cited by	9. U.S. v. Coastwise Steamship & Barge Co. 1919 WL 21393, *4 , Cust.App. Appeal from Board of United States General Appraisers, Abstract 42823. [Affirmed.]	June 07, 1919	Case		—
Cited by	10. Denike v. U.S. 1914 WL 21642, *2+ , Cust.App. Appeal from Board of United States General Appraisers, Abstract 34555 (T. D. 34090). [Reversed.]	June 01, 1914	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	<p>11. In re Burnside's Will 59 N.Y.S.2d 829, 831 , N.Y.Sur.</p> <p>Proceeding in the matter of the construction of the last will and testament and codicil thereto of Georgia A. Burnside, also known as Georgia D. Burnside, deceased. Decree in...</p>	Aug. 31, 1945	Case		—
Cited by	<p>12. In re Winburn's Will 247 N.Y.S. 584, 592 , N.Y.Sur.</p> <p>Proceeding for the judicial settlement of the accounts of City Bank Farmers' Trust Company and another, executors of the last will and testament of Jesse Winburn, deceased, and for...</p>	Jan. 19, 1931	Case		—
Cited by	<p>13. Goggans v. Simmons ¶¶ 319 S.W.2d 442, 445 , Tex.Civ.App.-Fort Worth</p> <p>Proceeding to construe holographic will. The District Court, Dallas County, F. B. Davenport, J., decreed that testator did not die intestate as to any property and decreed that...</p>	Dec. 19, 1958	Case		—
Mentioned by	<p>14. In re Bloomingdale's Estate 142 N.Y.S.2d 781, 785 , N.Y.Sur.</p> <p>Proceeding involving construction of will. The Surrogate's Court, Collins, S., held that testator, who was man of considerable means, and who maintained summer, winter, and...</p>	May 25, 1955	Case		—

Table of Authorities (1)

Treatment	Referenced Title	Type	Depth	Quoted	Page Number
Cited	<p>1. Arthur v. Morgan 5 S.Ct. 241, U.S.N.Y., 1884 In Error to the Circuit Court of the United States for the Southern District of New York.</p>	Case			164

Filings

There are no Filings for this citation.