REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

MACONDRAY & CO., INC., in its capacity as agent of the M/S "Tarantel",
Petitioner,

- versus - C.T.A. CASE NO. 2528

COMMISSIONER OF CUSTOMS,
Respondent.

10/28/77

x - - - - - - - - - - - - - - x

D E C I S I O N

For violation of Section 1005 of the Tariff and Customs Code in relation to Section 2521 thereof, the Collector of Customs for the Port of Manila imposed a fine of ₱1,000.00 on the vessel M/S "Tarantel". This was affirmed by respondent Commissioner of Customs in his decision promulgated on April 5, 1973. Unsatisfied with this decision, petitioner Macondray & Co., Inc., in its capacity as agent of the vessel M/S "Tarantel", brought the instant appeal.

The facts of the case are undisputed.

The M/S "Tarantel", with Registry No. 406, arrived at the Port of Manila on March 10, 1971. Among its cargoes transported and unloaded at the said port was an unmanifested shipment consisting of two (2) drums cutting agent consigned to San Miguel Corporation. The shipment was not manifested in the Inward Foreign Manifest of the vessel allegedly for the reason that, on account of a clerical error and an oversight committed in the preparation of the manifest at the port of loading, in good faith, the cargo was short-landed on M/S "Fermoor", and came forward on board M/S "Tarantel".

On May 3, 1971 petitioner filed an amendment to the Inward Foreign Manifest to the Entry Processing Division of the Bureau of Customs seeking to include therein the unmanifested shipment for the reason stated above. The amendment was approved subject, however, to an administrative case against the vessel. After a summary investigation of the case, an administrative fine of ₱1,000.00 was imposed.

It is argued for petitioner that the vessel did not violate Section 1005 of the Tariff and Customs Code because the alleged unmanifested cargo was not intended to be landed at the Port of Manila. It was already covered and included in the cargo manifest of the vessel M/S "Fermoor", but was short-shipped and came forward on the M/S "Tarantel." Assuming that the vessel indeed had conveyed unmanifested cargo, a fine of ₱1,000.00 is unreasonable in the absence of proof of motive to discharge unmanifested cargo, and the omission to include the shipment in the manifest was committed in good faith.

The issue to be resolved is whether the M/S "Tarantel" and/or petitioner herein, as ship-agent, are liable for the fine imposed upon the vessel for conveying unmanifested cargo pursuant to Section 1005, in relation to Section 2521, of the Tariff and Customs Code.

The issue is not of first impression.

We have upheld time and again in previous cases, where the factual setting is similar to that in the case at bar, the legality of the fine imposed by the Commissioner of Customs for failure of a vessel to have a complete manifest of all her cargoes. The defenses of good faith or lack of fraudulent intent and the acceptance by the Bureau of Customs of an amendment of the manifest are of no moment. (See Macondray & Co. Inc., vs. Comm. of Customs, CTA Case No. 2203, June 15, 1973; Macondray & Co. Inc. vs. Comm. of Customs, CTA Case No. 1992, April 4, 1973). For liability to attach, it is enough that the vessel has failed to have the cargo manifested in its Inward Foreign Manifest since under Section 1005 of the Tariff and Customs Code, it is an indispensable requirement that everytime a vessel arrives in the Philippines from a foreign port, it must have a complete manifest of all her cargoes intended to be unloaded and discharged at our local ports of entry. No exception is provided in the statute.

> Under Section 1005 of the Tariff and Customs Code, it is an imperative obligation of every vessel from a foreign port to have on board a complete manifest of all her cargo. No exception is mentioned in the statute. Neither is there mention of any exception in Section 2521 of said Code

providing for a fine for vessels without proper manifest nor in Section 2530 thereof pfoviding the confiscation of unmanifested goods. The recognition by the Coutt of any attempt to read into the statute any exception, such as misshipment of goods, would be contrary to the pervasive spirit as well as the clear language of the aforesaid provision. (Smith Bell & Co., (Phil.) Inc. vs. Comm. of Customs, CTA Cases Nos. 1728 & 1921, July 22, 1969; Macondray & Co., Inc. vs. Comm. of Customs, CTA Case No. 1930, Dec. 27, 1969, Certiorari denied in G.R. No. L-31599, Feb. 10, 1970; Macondray & Co., Inc. vs. Comm. of Customs, CTA Case No. 1911, April 20, 1970, Compañia General de Tabacos de Filipinas vs. Comm. of Customs, CTA Case No. 1939. Beb. 26, 1971; Compañia General de Tabacos de Filipinas vs. Comm. of Customs, CTA Case No. 2143, June 30, 1972; Macondray & Co., Inc. vs. Comm. of Customs, CTA Case No. 2079, Sept. 29, 1972; Macondray & Co., Inc. vs. Comm. of Customs, CTA Case No. 2067, Oct. 6, 1972; Macondray & Co., Inc. vs. Comm. of Customs, CTA Case No. 2082, Sept. 17, 1974; Macondray & Co., Inc. vs. Comm. of Customs, CTA Case No. 2484, Jan. 19, 1976; Compañia General de Tabacos de Filipinas vs. Comm. of Customs, CTA Case No. 2144, Jan. 5, 1976.) (Underlining supplied)

As regards the amount of the fine, we find it not excessive considering that this is not the first violation of the vessel M/S "Tarantel", under the same circumstances, of the aforementioned provision of law.

WHEREFORE, the decision appealed from is hereby affirmed. With costs against petitioner.

SO ORDERED.

Quezon City, October 28, 1977.

Amante Filler
AMANTE FILLER
Acting Presiding Judge

I CONCUR:

CONSTANTE C. ROAQUIN
Associate Judge