COMPAÑIA GENERAL DE TABACOS
DE FILIPINAS,
Petitioner,

- versus - C.T.A. CASE NO. 2522

THE COMMISSIONER OF CUSTOMS,
Respondent.

2/9/77

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DECISION

Appeal from the decision of respondent Commissioner of Customs dated March 1, 1973, modifying the decision of the Collector of Customs of Manila by increasing the fines imposed on the vessel S/S Trein Maersk and/or its ship agent petitioner herein under Administrative Case No. V-626/71, from ₱2,500.00 to ₱5,000.00; and under Administrative Case No. 628/71-A, from ₱5,000.00 to ₱7,500.00, for violation of Section 1005, in relation to Section 2521, of the Tariff and Customs Code.

Petitioner Compañia General de Tabacos de Filipinas is the local ship agent of the Maersk Lines, a foreign corporation engaged in interocean shipping and which operates, among others, the vessels S/S Trein Maersk and S/S Leda Maersk.

The records show that:

"On July 15, 1971, the respondent vessel (S/S Trein Maersk) arrived in the Port of Manila, and discharged cargoes from San Francisco, USA, including an unmanifested shipment consisting one (1) van disposable plastic hospital wares and chemicals and two (2) containers with 12 cartons, Model 209 Item 1326 143-A-10. For conveying unmanifested cargoes, the Collector of Customs instituted two separate administrative proceedings hearing Administrative Cases No. V-626/71 and 626/71-A against respondent (petitioner in this case) as local shipping agent of the subject vessel. During the hearings of the two cases, the parties agreed to consolidate the proceedings and entered into a stipulation of facts, one of which, was the failure of the vessel to report in the 'Inward Foreign Manifest' the aforesaid articles but without fraudulent intent on the part of the captain or master of the vessel to defraud the rightful revenue due the government in their importations. x x x." (Decision, Annex 'A', Petition for Review.)

On October 24, 1972, after a joint hearing, the Collector of Customs of Manila rendered a decision holding the S/S Trein Maersk and petitioner herein liable for the administrative fines of ₱2,000 and ₱5,000 in the said administrative cases, respectively, for violation of Section 1005 in relation to Section 2521 of the Tariff and Customs Code. On appeal, the Commissioner of Customs, in his decision of March 1, 1973, modified the decision of the Collector by increasing the penalties to ₱5,000.00 and ₱7,500.00, respectively. Hence, the present recourse.

The issue is whether or not the vessel S/S Trein Maersk or petitioner herein is liable for the administrative fines for violation of Section 1005, in relation to Section 2521, of the Tariff and Customs Code, the provisions of which read:

> Sec. 1005. Manifest Required of Vessel from Foreign Port.- Every vessel from a foreign port must have on board a complete manifest of all her cargo.
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> All of the cargo intended to be landed at a port in the Philippines must be described in separate manifests for each port of call therein. Each manifest shall include the port of departure and the port of delivery with the marks, numbers, quantity and description of the packages and the names of the consignees thereof. Every vessel from a foreign port must have on board complete manifests of passengers and their baggage, in the prescribed form, setting forth their destination and all particulars required by the immigration laws; and every such vessel shall have prepared for presentation to the proper customs official upon arrival in ports of the Philippines a complete list of all sea stores then on board. If the vessel does not carry cargo or passengers the manifest must show that no cargo or passenger, as the case may be, is carried from the port of departure to the port of destination in the Philippines.
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> A cargo manifest shall in no case be changed or altered after entry of the vessel, except by means of an amendment by the master, consignee or agent thereof, underoath, and attached to the original manifest: Provided, however, That after the invoice and/or entry covering an importation have been received and

> recorded in the office of the appraiser, no amendment of the manifest shall be allowed, except when it is obvious that a clerical error or any other discrepancy has been committed in the preparation of the manifest, without any fraudulent intent, discovery of which could not been made until after examination of the importation has been completed.
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> Sec. 2521.- Failure to Supply Requisite Manifests.- If any vessel or aircraft enters or departs from a port of entry without submitting the proper manifests to the customs authorities, or shall enter or depart conveying unmanifested cargo other than as stated in the next preceding section hereof, such vessel or aircraft shall be fined in a sum not exceeding ten thousand pesos.
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> The same fine shall be imposed upon any arriving or departing vessel or aircraft if the master or pilot in command shall fail to deliver or mail to the Auditor General a true copy of the manifest of the incoming or outgoing cargo, as required by law.

Petitioner contends that neither it nor the vessel S/S Trein Maersk is liable under the aforesaid law because the failure to manifest the subject articles was due to honest mistake or good faith, citing as reason therefor the abnormal conditions caused by the projected longshoremen's strike at the Port of San Francisco when the articles were being hurriedly loaded. Respondent, on the other hand, argues that, under the law, lack of fraudulent intent or good faith is not a valid defense against the failure of the vessel to have a correct and complete manifest of its cargo.

The issue before us is not of first impression. It is already well settled that when a vessel from a foreign port carries and discharges unmanifested cargoes at our ports, it is liable for violation of Sections 1005 and 2521 of the Tariff and Customs Code. The defense of honest mistake, lack of fraudulent intent to defraud the government, or good faith, is futile and will not relieve the vessel from liability. The law clearly makes it an imperative obligation of every vessel coming from a foreign port to have on board a complete and correct manifest of all its cargo. No exception is made in the statute and any attempt to read one into it, could hardly fail to defeat the purpose of its enactment. (U.S. vs. vs. Steamship "Rubi", 32 Phil. 228, 235-236; Smith Bell & Co. (Phil.) Inc. vs. Comm. of Customs, C.T.A. Cases Nos. 1728 & 1921, July 22, 1969;

Macondray & Co., Inc. vs. Comm. of Customs, C.T.A. Case No. 1930, Dec. 27, 1969; Compañia General de Tabacos de Filipinas vs. Comm. of Customs, C.T.A. Case No. 2143, June 30, 1972; Macondray & Co., Inc. vs. Comm. of Customs, C.T.A. Case No. 2082, Sept. 17, 1974; Compania General de Tabacos de Filipinas vs. Comm. of Customs, C.T.A. Case No. 2144, Jan. 5, 1976.)

It is hardly necessary to add:

> The evident intent and object of these requirements for the submission of manifests by all vessels from foreign ports is to impose upon the owners and officers of such vessels an imperative obligation to submit lists of the entire lading of the ship in the prescribed form, in order to facilitate the labors of the Customs and immigration officers, and to defeat any attempt to make use of such vessels to secure the unlawful entry of persons or things into the Islands. No exception is made in the statute, and the recognition of any attempt to read an exception into the statute could hardly fail to defeat the purpose of its enactment. (U.S. v. Rubi, 32 Phil. 235-242; see also Macondray & Co., Inc. vs. Commissioner of Customs, CTA Case No. 1930, Dec. 27, 1969.)

However, this Court had the occasion to rule in Compañia General de Tabacos de Filipinas vs. Commissioner of Customs, C.T.A. Case No. 2143, supra, that when the vessel's failure to manifest a cargo was attributable to abnormal conditions obtaining at the port of loading because of an impending strike of longshoremen, the penalty imposed by the Bureau of Customs may be reduced. It appears in this case that sometime in June 1971, while the vessels S/S Trein Maersk and S/S/Leda Maersk were at the Port of San Francisco, USA, a longshoremen's strike was about to be declared. Notice thereof was served to shipping companies, and thus, to beat the deadline for the strike, every effort was exerted by the shippers to load their cargoes aboard available ships bound for the Philippines. In the rush and confusion occasioned thereof, cargo intended and manifested for the S/S Trein Maersk, which was then berthed side by side with the S/S Leda Maersk, was loaded on board the latter, and cargo intended for the latter was loaded on board the S/S Trein Maersk. We deem it just and reasonable, therefore that the fine to be imposed should only be ₱5,000.00 under both Administrative Cases Nos. 626/71 and 626/71-A.

ACCORDINGLY, the decision appealed from is MODIFIED. The vessel S/S Trein Maersk or its ship agent petitioner Compañia General de Tabacos de Filipinas is hereby ordered to pay to the Bureau of Customs a fine of ₱5,000.00 for violation of Section 1005, in relation to Section 2521 of the Tariff and Customs Code.

SO ORDERED.

Quezon City, February 9, 1977.

AMANTE FILLER
Acting Presiding Judge

I CONCUR:

CONSTANTE C. ROAQUIN
Associate Judge