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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

MACONDRAY & CO., INC.,
(as agents of M/S "TOREADOR").
Petitioner,

- versus -

C.T.A. CASE NO. 2444

COMMISSIONER OF CUSTOMS,
Respondent.

x - - - - - + - - x

3/8/78

D E C I S I O N

Petitioner Macondray & Co., Inc., in its capacity as ship agent of the vessel M/S "Toreador", is seeking the review of the decision of respondent Commissioner of Customs dated December 8, 1971, holding it and said vessel liable for violation of Section 1005, in relation to Section 2521 of the Tariff and Customs Code of the Philippines, as amended.

The records of the case show that on or about April 23, 1969, the vessel M/S "Toreador" arrived at the Port of Manila and discharged thereat a cargo consisting of two (2) pallets of truck spare parts which were not listed in its Inward Cargo Manifest. After discovery thereof by the Bureau of Customs, petitioner, on behalf of the vessel, was required to explain. It did so in a letter dated August 26, 1969 ip. 14.

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Customs Records) alleging that the omission to manifest said cargo was due to the confusion and chaos brought about by the longshoremen's strike in New York, and that subject shipment was originally intended to be loaded on board the vessel M/S "Traviata", Voyage No. 26-A under Bill of Lading No. 57. On May 3, 1969, petitioner filed an amendment to the cargo manifest of the subject vessel. It was approved by the Bureau of Customs without prejudice to the filing of an administrative action against the M/S "Toreador". (p. 43, Customs Records.)

On July 31, 1969, the Collector of Customs initiated Administrative Case No. V-470 against the vessel for violation of Section 1005, in relation to Section 2521, of the Tariff and Customs Code. Subsequently, or on January 22, 1970, he rendered a decision imposing a fine of P3,000.00 on the vessel M/S "Toreador" and/or petitioner/herein. On December 8, 1971, upon appeal taken by petitioner, respondent Commissioner of Customs affirmed the decision of the Collector of Customs. Hence, this instant appeal to this Court.

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The only issue to be resolved is whether or not the imposition of the fine under Section 1005, in relation to Section 2521 of the Tariff and Customs Code against the vessel M/S "Toreador" is valid and justified.

In assailing the legality of the fine, petitioner relied solely on its defense that the failure to manifest the questioned shipment was due to a short-shipment committed in good faith and without intention of violating customs laws, brought about by the confusion caused by a strike in New York.

The issue involved is not one of first impression. Well-intrenched and oft-repeated is the pronouncement of this Court to the effect that whenever a vessel from a foreign port arrives and conveys unmanifested cargo, this results already in a violation of Sections 1005 and 2521 of the Tariff and Customs Code. The defense of good faith or lack of intention on the part of the vessel to defraud the government of lawful revenue is a futile gesture and will not relieve it from the penalty imposed by the aforesaid pronouncement of law.

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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 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 providing for the confiscation of unmanifested goods. The recognition 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. x x x (Smith Bell & Co. (Phil.) Inc. vs. Commissioner of Customs, CTA Nos. 1728 & 1921, July 22, 1969; See also Macondray & Co., Inc. vs. Commissioner of Customs, CTA Case No. 2079, September 29, 1972; Macondray & Co. Inc. vs. Comm. of Customs, CTA No. 2138, September 30, 1972; Macondray & Co., Inc. vs. Comm. of Customs, CTA Case No. 2140, November 15, 1972, Macondray & Co., Inc. vs. Comm. of Customs, CTA No. 2073, November 25, 1972.

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.) (Macondray & Co. Inc., vs. Commissioner of Customs; CTA Case No. 2471, April 28, 1977.)

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However, after giving due consideration to the underlying circumstances of the case, and considering the fact that the short-shipment of the goods in question was committed in good faith; that there was no intention to defraud the government of its lawful revenues; and that the vessel's cargo manifest was amended to include the unmanifested cargo, with the approval of the Bureau of Customs, (pp. 6 & 7, CTA Records.) this Court deems it just and reasonable that the fine of P3,000.00 imposed by respondent Commissioner of Customs for the violation of said Sections be reduced to an equitable amount of P2,000.00.

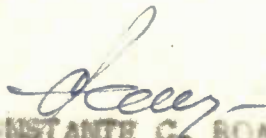
WHEREFORE, the decision appealed from is modified. Petitioner Macondray & Co., Inc. in its capacity as agents of the vessel M/S "Toreador" is hereby ordered to pay to the Bureau of Customs the sum of P2,000.00 as fine for violation of Section 1005, in relation to Section 2521, of the Tariff and Customs Code. With costs against petitioner.

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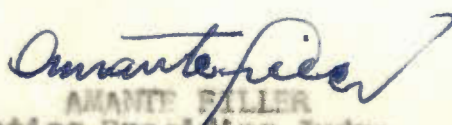
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SO ORDERED.

Quezon City, March 2, 1978.


CONSTANTE C. ROAQUIN
Associate Judge

I CONCUR:


AMANTE FILLER
Acting Presiding Judge