MACONDRAY & COMPANY, INC.,
in its capacity as agent of
the MS "TARANTEL",
Petitioner,

- versus - C.T.A. CASE NO. 2471

COMMISSIONER OF CUSTOMS,
Respondent.

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

April 28/77

D E C I S I O N

Petitioner Macondray & Co., Inc., in its capacity as ship agent of the vessel MS "TARANTEL", is seeking a review of the decision of respondent Commissioner of Customs dated November 20, 1972, holding it and said vessel liable for an administrative fine of ₱1,000.00 for violation of Section 1005 of the Tariff and Customs Code, in relation to Section 2521 of the same Code.

There is no dispute as to the facts as borne out by the pleadings and memoranda of the parties.

On January 4, 1966 the vessel MS "TARANTEL", of which petitioner is the ship agent, arrived at the Port of Manila and discharged thereat, among other cargoes, seventeen (17) bales of used clothing which were not listed in its inward cargo manifest. After discovery thereof by the Bureau of Customs, petitioner, on behalf of the vessel, explained in a letter dated February 1, 1966 that the omission to manifest said cargo was due to a shortshipment committed in good faith, as the same was originally manifested in the inward cargo manifest of the M/S "Temeraire" which arrived in Manila on December 20, 1965. However, on July 12, 1967, the Collector of Customs instituted administrative proceedings against said vessel for violation of Section 1005, in relation to Section 2521, of the Tariff and Customs Code and, subsequently, rendered his decision on February 14, 1969, imposing a fine of ₱1,000.00 on the vessel and/or petitioner herein. On November 20, 1972, on appeal by petitioner, said decision of the Collector was affirmed by the Commissioner of Customs. Hence the present recourse.

The only issue is whether or not the imposition of the fine against the MS "TARANTEL" and/or petitioner is valid and justified.

In assailing the legality of the fine, petitioner steadfastly relies on its defense that the failure to manifest the cargo in question was due to a shortshipment committed in good faith and without violating customs laws.

Indeed, the issue is not one of first impression. The settled doctrine in this jurisdiction, consistently repeated, is that whenever a vessel arrives from a foreign port conveying unmanifested cargo, it violates Sections 1005 and 2521 of the Tariff and Customs Code. The defense of good faith or lack of intent to defraud the government of its lawful revenue on the part of the vessel is futile and will not relieve it from the penalty imposed by the law.

> 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 manifests, 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 provisions. 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. 1930, December 27, 1969; 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.)

It appearing that the vessel's failure to manifest the cargo in question was not attributable to abnormal conditions obtaining at the port of loading and, as can be seen from the cases cited above, petitioner has repeatedly been violating Section 1005 in relation to Section 2521 of the Tariff and Customs Code, the fine of ₱1,000.00 imposed by respondent is deemed just and reasonable under the premises.

WHEREFORE, the decision appealed from is hereby affirmed, and the vessel MS "TARANTEL" and/or petitioner herein are ordered to pay to the Bureau of Customs the fine of ₱1,000.00 for violation of Section 1005, in relation to Section 2521 of the Tariff and Customs Code. With costs.

SO ORDERED.

Quezon City, April 28, 1977.

Amante Filler
AMANTE FILLER
Acting Presiding Judge

I CONCUR:

Roaquin
CONSTANTE C. ROAQUIN
Associate Judge