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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

COMPANIA MARITIMA,
Petitioner,

- versus - C.T.A. CASE NO. 2179

THE ACTING COMMISSIONER
OF CUSTOMS,
Respondent.
x - - - - - - - - - - - - x

10/24/78

D E C I S I O N

The Collector of Customs for the Port of Iloilo, finding unmanifested seventeen (17) cases of Old Gold blue seal untaxed cigarettes loaded on board M/V "PANAY" when she arrived at the port, tentatively imposed a fine of ₱10,000.00 upon said vessel for violation of Section 2521 of the Tariff and Customs Code. This was affirmed, upon appeal, by respondent Commissioner of Customs in his decision dated August 28, 1967. Not satisfied with the decision, petitioner Compania Maritima, as owner and operator of the vessel, appealed to this Court.

After the issues were joined with the filing of respondent's answer on November 6, 1970, this case was set for hearing on September 1, 4 and 5, 1972. Upon motion of petitioner, the scheduled hearing was postponed to November 21, 22 and 23, 1972; later to February 4, 5 and 6, 1973 and then to April 12 and 13, 1973. The hearing on April 12, 1973 was again postponed to May 21, 1973; to June 27, 1973 and then to August 15, 1973. On this last scheduled date of hearing, petitioner filed a motion for another postponement in order to give the parties sufficient time to finalize and submit a stipulation of facts. The said motion was granted by the Court and the case was set for hearing on October 13, 1973; later postponed to December 15, 1973; to December 21, 1973; then to February 8, 1974. Time and again the hearings of this case were postponed to later dates.

Eventually, on June 13, 1974, petitioner manifested that it is compromising the case with respondent and asked the Court for another postponement. The case was reset on August 16, 1974; postponed to September 18, 1974; then to the next calendar of the Court. Subsequently, the hearing was set for March 10, 11 and 12, 1976; again postponed to the next calendar of the Court which fell on February 14 and 15, 1977. This scheduled hearing was again postponed to October 5 and 6, 1977.

On October 5, 1977, petitioner manifested that its offer for amicable settlement, after it was favorably considered by respondent, was awaiting action by the Office of the Solicitor General. To give time for the latter to study the matter, petitioner requested, and was granted, that the case be reset in the next calendar of the Court. The next calendar was on February 6 and 7, 1978, but on the said dates, neither petitioner nor counsel appeared. Hence, the Court considered the case submitted for decision on the basis of the pleadings. Upon petitioner's motion, however, the order of this Court submitting the case for decision was reconsidered in its resolution dated March 30, 1978.

Thereafter, the parties were notified of the hearing of this case scheduled on September 8, 1978. During this hearing, petitioner manifested that it would file within a period of one week a motion submitting the case for decision on the basis of its offer of amicable settlement, which respondent found reasonable, but referred to the Office of the Solicitor General as counsel for the Government. Said motion was filed on September 14, 1978. With the filing of petitioner's "Manifestation And Motion", and without objection on the part of respondent, the Court considered the case submitted for decision.

The circumstances that led to the imposition of the administrative fine of P10,000.00 against M/V "PANAY", as gathered from the pleadings and stated in the decision appealed from, a copy of which is Annex "E" of the petition for review, are as follows:

> "The facts in this case are not disputed. It appears that on June 8, 1962, the M/V "PANAY" arrived in the Port of Iloilo from the Port of Cotabato. When Customs Patrol Agents of the

> Iloilo Customhouse boarded and inspected the ship, they found on board seventeen (17) cases of Old Gold blue seal untaxed cigarettes hidden in the men's and ladies' toilets. These cigarettes were found to be unmanifested in the ship's manifests.
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> "Investigations conducted by the customs authorities of said port failed to pinpoint the responsible persons, although there was a strong indication that the loading of the aforesaid cigarettes was done with the connivance of some crew members.
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> "There is no question that under the foregoing set of facts, the M/V "PANAY" has violated the provisions of Section 2521 of the Tariff and Customs Code for conveying unmanifested cargo, whereby a fine in the sum not exceeding ten thousand pesos may be imposed." (p. 8, CTA rec.)

There is no dispute that the seventeen (17) cases of Old Gold blue seal untaxed cigarettes that were found on board the vessel M/V "PANAY" were <u>not manifested</u>. Petitioner claims, however, that since it had no knowledge of the unmanifested cargo on board said vessel, no fine should be imposed.

We find no merit in petitioner's cause.

The pertinent provision of Section 2521 of the Tariff and Customs Code reads as follows:

> SEC. 2521. <u>Failure to Supply Requisite Manifests</u>.- If any vessel x x x enters and departs from a port of entry without submitting the proper manifests to the customs authorities, or shall enter or depart conveying unmanifested cargo x x x, such vessel x x x shall be fined in a sum not exceeding ten thousand pesos.
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> x x x x x x x x x.

Under the foregoing provision of the Tariff and Customs Code, the imposition of a fine upon any vessel that enters or departs from a port of entry conveying unmanifested cargo is mandatory. The law admits of no exception. And it cannot be doubted that the intention of the law is to provide for the imposition of the prescribed penalties in all cases where unmanifested cargo is found on the vessel, whether it appears that such cargo was placed on board with or without the consent or knowledge of the owners or ship's officers and despite the possibility of individual hardships in some instances. The penalty may be imposed notwithstanding the absence of affirmative proof that such unamnifested cargo was taken on board at some foreign port or place. (See U.S. vs. The Steamship "Rubi", 32 Phil. 228)

We find equally applicable to this case the pronouncement in U.S. vs. The SS "Islas Filipinas", 28 Phil. 291, where the vessel involved therein and the owners were held liable to a fine for having on board unmanifested cargo, in this wise:

> "The present case raises a question of great importance to the practical and successful working of the Customs Administrative Act, and its decision will determine whether Section 77 of said Act is to be given force and effect and is to have any real value as a provision designed to prevent frauds upon the public revenues. If the owners of vessels were allowed to escape the penalty provided for this fraud or attempt to defraud the revenues by setting uppleas of innocence and ignorance, it is clear that the legislative intention would be defeated. x x x."

In other words, lack of knowledge or consent on the part of the owners of a vessel of a violation of the provision of Section 2521 of the Tariff and Customs Code, in no wise relieves the vessel of her liability for the penalties prescribed therefor. Nonetheless, considering that petitioner disclaims any knowledge of the unmanifested cargo carried on board the vessel; and it appears that it is exerting all efforts to stop smuggling activities among its passengers, officers and crew-members; and furthermore, the law allows latitude in the imposition of the fine, we deemed it just and proper to reduce the amount of the fine imposed on the M/V "PANAY" and/or petitioner herein to ₱3,000.00, the same amount offered in petitioner's manifestation and motion filed on September 14, 1978, which respondent considers reasonable and to which no objection was interposed by him.

WHEREFORE, the decision appealed from is MODIFIED, and the vessel M/V "PANAY" and/or petitioner herein are hereby ordered to pay to the Bureau of Customs the administrative fine of ₱3,000.00 for violation of Section 2521 of the Tariff and Customs Code. With costs.

SO ORDERED.

Quezon City, October 24, 1978.

Amante Filler

AMANTE FILLER
Acting Presiding Judge

I CONCUR:

CONSTANTE C. ROAQUIN
Associate Judge