REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

YVETTE TRADING CORPORATION,
Petitioner,

- versus - C.T.A. CASE NO. 3796

HON. RAMON J. FAROLAN,
in his capacity as
Commissioner of Customs,
Respondent.
x - - - - - - - - - - - - - x

3/30/88

D E C I S I O N

Petitioner seeks to vacate respondent Commissioner of Customs' decision relative to the forfeiture of a shipment, subject of Seizure Identification No. 442-83 of the Port of Manila, as violative of the Customs law.

The pertinent provisions of the Tariff and Customs Code are as follows:

> SEC. 2530. Property Subject to Forfeiture Under Tariff and Customs Law.
>
> x x x x x x x x x
>
> f. Any article the importation or exportation of which is effected or

attempted contrary to law, or any article or prohibited importation or exportation, and all other articles which, in the opinion of the Collector, have been used, are or were entered to be used as instruments in the importation or exportation of the former;

x x x x x x x x x

1. Any article sought to be imported or exported:

x x x x x x x x x

(3) On the strength of a false declaration or affidavit executed by the owner, importer, exporter or consignee concerning the importation of such article;

(4) On the strength of a false invoice or other document executed by the owner, importer, exporter or consignee concerning the importation or exportation of such article; and

(5) Through any other practice or device contrary to law by means of which such articles was entered through a customhouse to the prejudice of the government.

The material facts are relatively simple.

On May 6, 1983 the subject shipment arrived on board the vessel "MV EVER PIONEER" under Registry No. DPS-024 covered by Bill of Lading No. KLGMNI of

Evergreen Marine Corporation and consigned to claimant Yvette Trading Corporation of 14 G. de Jesus St., Caloocan City, Metro Manila.

Upon Customs inspection and examination the shipment as found was as follows:

Declared Articles	Actual Shipment
400 gross shoe buckles	25 bags shoe buckles (400 per bag or 70 gross)
2,400 dz shoe soles	84 cartoons (1,150 dz) shoe soles
200 rolls nylon 44"	400 rolls nylon 44"
150 rolls nylon 60"	300 rolls nylon 60"
20 rolls nylon tricot with foam	20 rolls tricot with foam
One (1) unit shoe punching machine	One (1) unit shoe punching machine
	Ten (10) bags rivets (4,750 pcs/bag or 330 gross)
	416 cartoons finished sandals (100 pcs/ctn or 16,800 pcs.)

Accordingly, seizure proceeding was instituted against the shipment for violation of the Customs Law, supra.

After due hearing the Collector of Customs of the Port of Manila decreed the forfeiture of the entire shipment for being grossly misdeclared (S.I. No. 442-83). And because of the glaring gross discrepancy between the articles so declared and as actually found, the respondent Commissioner of Customs affirmed the Collector's decision (Customs Case No. 84-17, May 30, 1984).

Hence this petition.

In assailing the validity of the decree of forfeiture, petitioner-claimant avers that the "discrepancy in the declared articles and the actual shipment was due to the mis-shipment of the finished sandals in lieu of certain raw materials declared but not included in the shipment, a mistake not imputable to petitioner". Moreover, "to deprive local shoe manufacturers for petitioner's "bad luck" is much too harsh a consequence, especially in this times of crisis nor is there justifiable reason to continue withholding said raw materials and rendering a sector of the industry paralyzed."

We reach the same conclusion as the respondent's. The apparent quibble on a mis-shipment can hardly be a reassuring prospect that can easily be reconciled with the statutory intendment. Far be it from a comedy of errors the cargo stuffing was neither slipshod nor unprofessional and which the parties concern just knew what there was to be known, thus, "the first half of the container contained undeclared items (finished sandals) while the second half contained declared items (nylon materials). It was packed in such a way that great effort is needed to be able to see and find the undeclared items. Such manner of stuffing the container van, is, to the undersigned's mind, an indicium of a scheme to defraud the Government of its lawful revenues." (Collector's decision).

Innocuous and innocent as made to appear, the scheme, no less of furtive significance, brooks no instant exculpation. Perhaps there is nothing wrong with the mis-shipment but there is nothing ingratiatingly right either and the fact is that the law has been violated. Such specie of dodging of the mould as the case at bar was not propititious then, it cannot, now.

Upon the records before Us there is nothing to take the case out of the operative effects of the statutory proscriptions as understood and applied.

The circumstances obtaining have clearly brought the petitioner's situation within the caveat enjoined in Section 2530 of the Tariff and Customs Code which explicitly directs the forfeiture of such goods, the importation of which is effected or attempted contrary to law.

WHEREFORE, the petition is without merit and the same is hereby dismissed with costs against the petitioner.

SO ORDERED.

Quezon City, Metro Manila, March 30, 1988.

ALEX Z. REYES
Associate Judge

WE CONCUR:

AMANTE FILLER
Presiding Judge

CONSTANTE C. ROAQUIN
Associate Judge

C E R T I F I C A T I O N

I hereby certify that this decision was reached after due consultation among the members of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

AMANTE FILLER
Presiding Judge
Court of Tax Appeals