

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

MACONDRAT & CO., INC.,
in its capacity as
agent of the MS "FERRECLIFF",
Petitioner,

versus

C.T.A. CASE NO. 2203

COMMISSIONER OF CUSTOMS,
Respondent.

X - - - - - X

June 15/73

D E C I S I O N

This is a petition to review the decision of respondent Commissioner of Customs dated September 28, 1970, which affirmed that of the Collector of Customs for the Port of Manila in Customs Case No. 896, imposing a fine of P2,000.00 on the vessel MS "FERRECLIFF" for alleged violation of Section 1005 of the Tariff and Customs Code, in relation to Section 2521 thereof.

Briefly, the undisputed facts show that on April 25, 1967, the MS "FERRECLIFF", a foreign vessel with Registry No. 704 and of which petitioner is the local ship agent, arrived at the Port of Manila with cargo, among which, were two (2) pallets of sprocket chain attachments which were not listed in her inward cargo manifest. Sometime later after the discrepancy was discovered, an amendment to the manifest was filed on behalf of

DECISION -
C.T.A. CASE NO. 2203

2

the MS "FERNCLIFF" to correct the error, which amendment was accepted and approved by the Bureau of Customs "without prejudice to an administrative action against the vessel."

In the seizure proceedings instituted against the MS "FERNCLIFF" sometime in October, 1967, petitioner, as ship agent thereof, appeared as party-respondent and adduced evidence to the effect that the two (2) pallets of sprocket chain attachments were covered by the manifest of the MS "THERRAIRE" (another vessel represented by petitioner) but said articles were short-shipped at the port of loading and, instead, were carried by the MS "FERNCLIFF".

On December 6, 1967, a decision was rendered by the Collector of Customs holding the MS "FERNCLIFF" liable for violation of Section 1005 of the Tariff and Customs Code and imposing a fine of \$2,000.00 pursuant to Section 2521 of the same Code.

On September 28, 1970, after an appeal by petitioner to the Commissioner of Customs, the latter rendered a decision affirming that of the Collector. Hence, the present appeal.

The principal issue is whether or not the MS "FERNCLIFF" and/or petitioner herein, as agent, is liable for the fine imposed under the foregoing sections of the Tariff and Customs Code.

DECISION -
CTA CASE NO. 2203

3

Petitioner assails the legality and propriety of the fine on the grounds that (1) the failure to manifest the articles in question was due to a short-shipment; and (2) the manifest was duly amended to correct the error. Furthermore, petitioner alleges that the value of the articles in question is even less than the (\$2,000.00) fine imposed by the Bureau of Customs.

The issue before us is not new. In previous cases involving similar or identical issues, the imposition of a fine by respondent for failure of a vessel to have a correct and complete cargo manifest has been consistently sustained, rejecting such defenses as good faith, inadvertence, mistake, misshipment, shortshipment, etc., as well as the defense relating to the amendment of the manifest. (See *Macondray & Co., Inc. v. Comm. of Customs*, C.T.A. No. 1992, April 4, 1973, and cases cited therein.) We find no justification to deviate from the well-settled doctrine established in previous similar cases.

(Be this as it may, we find the fine of \$2,000.00 quite excessive, considering the circumstance that the failure to manifest the cargo in this case was due to a mistake in the shipment, and, as alleged in petitioner's memorandum, which is not controverted, the value of the unmanifested articles

DECISION -
CTA CASE NO. 2203

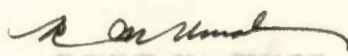
4

is less than the amount of the fine imposed by the Bureau of Customs. We believe, therefore, that a fine of \$500.00 would be just and reasonable.)

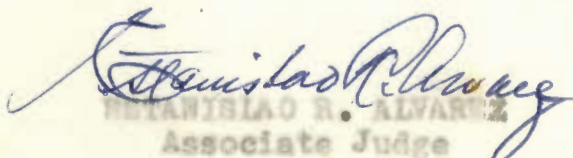
WHEREFORE, the decision of the Commissioner of Customs appealed from is hereby modified, and petitioner is ordered to pay the sum of \$500.00 within thirty (30) days from the date this decision becomes final.

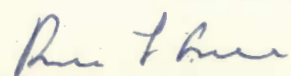
SO ORDERED.

Quezon City, June 15, 1973.


ROMAN M. UMALI
Presiding Judge

WE CONCUR:


ESTANISLAO R. ALVAREZ
Associate Judge


RAMON L. AVANCERA
Associate Judge