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

versus

C.T.A. CASE NO. 2072

COMMISSIONER OF CUSTOMS,
Respondent.

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

DECISION

This is an appeal from the decision of respondent dated February 4, 1970, affirming that of the Collector of Customs of Manila which imposed an administrative fine of ₱2,000.00 on the vessel MS "Troubadour" for carrying unmanifested cargo in violation of Section 1005 in relation to Section 2521 of the Tariff and Customs Code.

It appears that petitioner is a ship agent of the vessel MS "Troubador" with registry No. 2022 which arrived at the port of Manila on November 19, 1967, carrying among others 19 cartons of truck parts marked Carter 67/56 Manila.

The cargo is covered by Bill of Lading No. 35, but the Customs authorities discovered that the number of cartons reflected in the manifest is 42, while the actual cargo that arrived were 19 cartons.

Consequently, the Collector of Customs of Manila instituted administrative proceedings against

38

the aforesaid vessel for carrying cargo on board without a complete and accurate manifest in violation of Section 1005, in relation to Section 2521, of the Tariff and Customs Code.

Petitioner contends that the discrepancy in the manifest was due to a clerical error done in good faith which should be 19 cartons only, instead of 42 cartons as appearing in the manifest. The manifest was, however, amended to conform with the cargo that was actually shipped, which amendment was allowed by respondent. This discrepancy was brought about because the 23 cartons (Truck Parts Carter 67/56 Manila) were loaded on board the vessel MS "Fernland" that arrived on November 29, 1967 while the balance of 19 cartons was brought by the aforesaid vessel MS "Troubadour" which arrived in Manila on November 19, 1967 ahead of the vessel MS "Fernland".

After due hearing, the Collector of Customs rendered his decision holding that the aforesaid vessel MS "Troubadour" violated Section 1005 of the Tariff and Customs Code and imposed a fine of ₱2,000.00 against petitioner herein, which decision, on appeal to the Commissioner of Customs, was affirmed on February 4, 1970. On February 28, 1970, the instant appeal was instituted.

The only issue to be resolved in this case is whether or not the imposition of the administrative fine of ₱2,000.00 against petitioner is in accordance with law.

We do not subscribe to petitioner's theory. Section 1005 of the Tariff and Customs Code clearly requires that the master of the vessel arriving from a foreign port must have on board a complete and accurate manifest.

In a previous case appealed to this Court by herein petitioner (Macondray & Co., Inc. v. Commissioner of Customs, C.T.A. Case No. 2090, December 16, 1971) involving a similar issue, it was held:

> "Petitioner further asserts that 'the provision of the law on amendment is designed to protect the master, agent or consignee from the error, mistake or discrepancy committed by him in the preparation of the original manifest and that it is unfair and uncalled for to conclude, as the respondent held in this case, that the right to amend the manifest is for the principal purpose of protecting innocent importers.' Whether the purpose of the law in permitting amendment of a vessel's manifest is to protect the master, agent or consignee of the vessel, or the importer of the goods, is to our mind of slight significance. Under Section 2521 of the Tariff and Customs Code, no relief from liability for the fine is granted where an amendment of the manifest is allowed."

40

On the basis of the doctrine laid down in the above cited case, we find no sufficient reason to deviate from the foregoing pronouncement.

However, we are of the opinion that the fine imposed in the amount of ₱2,000.00 is exorbitant and believe that ₱1,000.00 is sufficient.

WHEREFORE, the appealed decision of respondent Commissioner of Customs is hereby modified by reducing the fine from ₱2,000.00 to ₱1,000.00, which petitioner is hereby ordered to pay to the Bureau of Customs, Manila, within thirty (30) days from the date this decision becomes final.

SO ORDERED.

Quezon City, June 30, 1972.

R M Umali
ROMAN M. UMALI
Presiding Judge

WE CONCUR:

Estanislao R. Alvarez
ESTANISLAO R. ALVAREZ
Associate Judge

RAMON L. AVANCEÑA
Associate Judge