

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

AMERICAN PRESIDENT LINES, LTD.
in its capacity as agent of
SS "PRESIDENT FILMORE"
Petitioner,

- versus -

C.T.A. CASE NO. 3842

COMMISSIONER OF CUSTOMS,
Respondent.

X - - - - - X

5/26/

D E C I S I O N

This is an appeal from the decision of the Commissioner of Customs affirming the ruling of the Collector of Customs finding the vessel SS "President Filmore" guilty of violating Section 1005 in relation to Section 2521 of the Tariff and Customs Code and imposed the maximum fine of P30,000.00.

On June 29, 1978, the SS "President Filmore" arrived at the Port of Manila and discharged its cargo including 16 pallets containing 800 bags of PVC Resin, consigned to the Philippine Banking Corporation.

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The Inward Foreign Manifest reflected the 16 pallets but inadvertently declared only 100 bags of PVC Resin with the consignee appearing as American President Lines, Ltd. After having discovered this discrepancy, petitioner filed an amended Inward Foreign Manifest showing the correct volume of 800 bags of PVC Resin and the consignee as Citibank, which was approved by the Bureau of Customs.

On April 2, 1979, the Collector of Customs of Manila initiated the case against the SS "President Filmore" for alleged carrying of cargo in violation of Section 1005 in relation to Section 2521 of the Tariff and Customs Code. At the hearing of this case, petitioner contended that the error was purely typographical and committed in good faith at the port of loading, wherein the petitioner did not have the opportunity to check and verify the declaration of the shipper.

The issues presented for disposition are:

1. Whether or not petitioner violated Section 1005 in relation to Section 2521 of the Tariff and Customs Code; and
2. Whether or not the respondent properly

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imposed on the petitioner the maximum penalty of P30,000.00.

Indeed there is a violation of Section 1005, in relation to Section 2521 of the Tariff and Customs Code. We note however that there is a clerical error in the entry of only 100 bags of PVC Resin instead of 800 bags and is not tainted with fraudulent intent. According to petitioner's counsel, a pallet (which is a portable platform for handling, storing, or moving materials and packages) normally contains 50 bags. And, hence, if the 16 pallets is reflected to have only 100 bags of PVC Resin, then there will be loaded only about 6 bags per pallet, which is indeed time consuming and expensive. Considering that there indeed was a clerical error committed herein without any fraudulent intent, or was committed in good faith, it would be excessive to award a maximum fine of P30,000.00. To our mind, a fine of P15,000.00 would be most appropriate inasmuch as it is the "first offense" of the SS "President Filmore". Furthermore, petitioner has paid the proper Customs duties after the cargo manifest was

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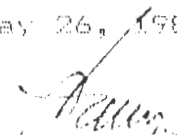
allowed to be amended, and hence, the government was not prejudiced in the form of lost duties.

WHEREFORE, the appealed decision is hereby modified and an award of P15,000.00 is hereby pronounced.

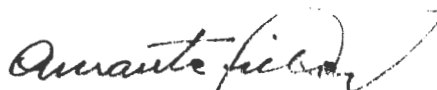
Without pronouncement as to costs.

SO ORDERED.

Quezon City, Metro Manila, May 26, 1989.


CONSTANTE C. ROAQUIN
Associate Judge

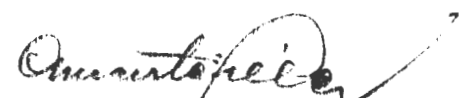
WE CONCUR:


AMANTE FILLER
Presiding Judge


ALEX Z. REYES
Associate Judge

CERTIFICATION

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