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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

CARLOS A. GO THONG & CO.,
Petitioner,

- versus -

C.T.A. CASE NO. 2627

COMMISSIONER OF CUSTOMS
Respondent.

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9/21/82

D E C I S I O N

The lone question tendered for resolution in this appeal is whether or not the vessel M/V "Doña Rita" of petitioner Carlos A. Go Thong & Company is liable for the administrative fine of ₱10,000.00 imposed by respondent Commissioner of Customs for conveying unmanifested articles consisting of contraband blue seal cigarettes in violation of Section 907, in relation to Section 2521, of the Tariff and Customs Code, as amended, the pertinent portions of which read:

> "Sec. 907. Manifest Required Upon Departure From Port Of Entry. - Prior to departure from a port of entry, the master of a vessel licensed for the coastwise trade shall make out and subscribe duplicate manifests of the whole of the cargo x x x, specifying in the cargo manifests the marks and numbers of packages, the port of destination and the names of the consignee, together with such information as may be required, x x x . He shall deliver such manifests to the Collector

of Customs or other customs official duly authorized, before whom he shall swear to the best of his knowledge and belief, in respect to the cargo manifests, that the goods therein described, if foreign, were imported legally and that the duties, taxes and other charges thereon have been paid or secured to be paid, x x x. Thereupon, the Collector of Customs or customs official shall certify the same on the manifest, the original of which he shall return to the master with a permit specifying thereon, generally, the lading on board such vessel, and authorizing him to proceed to his port of destination, retaining the duplicates."

"Sec. 2521. Failure to Supply Requisite Manifests.- If any vessel x x x enters or 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 the amount not exceeding ten thousand pesos.

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The Collector of Customs of the port of Cebu, who had original jurisdiction of the case, imposed a fine of ₱10,000.00 against the vessel, but reduced it, on a motion for reconsideration, to ₱5,000.00. A resort to respondent Commissioner of Customs resulted in the restoration of the fine to ₱10,000.00 to put more teeth, according to respondent, to the law on smuggling and to further deter the vessel M/V "Doña Rita" from committing similar offense in the future.

Hence, the present recourse.

As borne out by the petition for review filed by petitioner and the records of the Bureau of Customs bearing on this case, the following are the uncontroverted facts that gave rise to the present controversy:

Petitioner is a partnership registered and existing under the laws of the Philippines with main office at Cebu City. It is the owner and operator of M/V "Doña Rita", an interisland vessel calling at various ports, among others, ports of Dadiangas, Cotabato, Zamboanga and Cebu.

On March 26, 1973, M/V "Doña Rita" arrived in the port of Cebu coming from Cotabato. Upon arrival, the vessel was searched by a combined team of customs police and coast guards for contraband articles. The search yielded 562 reams of blue seal cigarettes which were later on seized. These articles were found hidden in the hatch of the vessel.

For conveying unmanifested articles consisting of contraband blue seal cigarettes in violation of Section 907, in relation to Section 2521, of the Tariff and Customs Code, as amended, the Collector of Customs of the port of Cebu imposed an administrative fine of ₱10,000.00 against the M/V "Doña Rita". On a motion for reconsideration, the Collector of Customs however modified his decision by reducing the fine to ₱5,000.00, but respondent Commissioner of Customs re-imposed the administrative fine of ₱10,000.00 when the case was appealed to him.

In assailing the government's right to impose the administrative fine aforesaid, petitioner avers that it had no knowledge of the unlawful act of its vessel in carrying on board smuggled blue seal cigarettes. Petitioner argues that it has exercised extraordinary diligence over the officers and crew members to the extent of dismissing those suspected and found involved in smuggling activities.

In brushing aside this stand of petitioner, however, respondent maintains that petitioner is unable to stop its employees on board the vessel M/V "Doña Rita" from the commission of smuggling. The warning issued by petitioner is not effective, and it is hard to believe that responsible officers on board the vessel would fail to notice the bulk of 562 reams of untaxed blue seal cigarettes being loaded on board the vessel.

Indeed, the issue involved herein is not one of first impression. In Compania Maritima vs. Acting Commissioner of Customs, CTA Case No. 2577, February 28, 1978, where the factual setting is similar to that in the case at bar, this Court, citing cases decided by it and the Supreme Court, unequivocally sustained the Government's right to impose an administrative fine on a vessel carrying unmanifested cargo in violation of Section 907, in relation to Section 2521, of the Tariff and Customs Code, notwithstanding the defense of lack of knowledge of the owner of the vessel or his agents in charge thereof of the prohibited act, in the following wise:

> "At any rate, it is felt that petitioner's defense of lack of knowledge must yield to the spirit and policy of the law, and thus, must be rejected. Section 907 of the Tariff and Customs Code, as heretofore quoted, uses the word "shall" in requiring cargoes to be manifested, which is an imperative and mandatory obligation on the part of the master of the vessel. There is no exception provided in Section 907. Neither is there an exception provided in Section 2521, imposing a penalty of a fine, nor under Section 2530 which imposes the penalty of forfeiture of the unmanifested cargo. To recognize and accept, therefore, the defense of lack of knowledge on the part of the vessel's officers or its owner as a valid and exculpatory defense, would be reading into the law an exception, thereby rendering nugatory and ineffective the language of the statute and disregarding its purposes and objectives."

We find no cogent and valid reason to modify, much less depart, from the conclusion reached in Compania Maritima, as expressed in the above-quoted opinion of the Court there, and the same should therefore resolve the identical problem now brought before us in this proceeding. Accordingly, the decision of respondent Commissioner of Customs must be sustained, and the vessel M/V "Doña Rita" and/or its owner and operator petitioner herein Carlos A. Go Thong & Company are hereby ordered to pay to the Bureau of Customs the fine of ₱10,000.00 for violation of Section 907, in relation to Section 2521, of the Tariff and Customs Code, as amended.

WHEREFORE, the judgment under review is hereby affirmed, with the costs of this instance against petitioner.

SO ORDERED.

Quezon City, Metro Manila, September 21, 1982.

AMANTE FILLER
Presiding Judge

WE CONCUR:

CONSTANTE C. ROAQUIN
Associate Judge

ALEX Z. REYES
Associate Judge