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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

WARNER BARNES & CO., INC.
in its capacity as agent
of M/S "JOHN BAKKE",
Petitioner,

- versus -

C.T.A. CASE NO. 4001

COMMISSIONER OF CUSTOMS,
Respondent.
x - - - - - - - - - - - - x

8/29/88

D E C I S I O N

This is a petition for review of the decision of respondent Commissioner of Customs dated August 21, 1985, which affirmed the decision of the Collector of Customs, Port of Manila, dated October 25, 1982 imposing an administrative fine of P10,000.00 against the vessel M/S "JOHN BAKKE" for violation of Section 1005 in relation to Section 2521 of the Tariff and Customs Code, as amended.

The essential facts are not in controversy. As related in the decision of respondent Commissioner of Customs:

Records show that subject vessel M/S "JOHN BAKKE" arrived Manila on September 28, 1978, and discharged thereat cargoes including 6,000 cartons of match splints. In the Inward Foreign Manifest submitted by the master, the name of the consignee was inaccurately declared as "Liang Chung Corporation" when the actual and real consignee is the Philippine Match Co.

As it is necessitated that an amendment before the Import Entry filed could be processed, one was filed and approved by the Bureau of Customs. However, as a consequence of the filing of the said inaccurate manifest, an administrative action was commenced against the vessel M/S "JOHN BAKKE'.

During the hearing, the Prosecution contended that the subject vessel violated Section 1005 in relation to Section 2521 of the Tariff and Customs Code of 1978. An amended Inward Foreign Manifest (Exhibit "A") was submitted to support its contention. Also submitted was the letter of the Law Division (Exhibit "B") addressed to the respondent (now petitioner herein) requiring the latter to explain in writing why no administrative fine should be imposed on the vessel for violation of the law.

On the other hand, the respondent (petitioner herein), through counsel, claimed that the declaration in the manifest was a harmless one committed in good faith without intent to defraud the Government of its lawful revenue. The respondent (petitioner herein) explained that the shipment originated from Tsingtao, China, and loaded on board S/S "MISTRUNG", and later transhipped from Hongkong to Manila on board M/S "JOHN BAKKE" under Bill of Lading No. T-354 with the declaration in the Inward Foreign Manifest of Liang Chung Corporation, Ltd., as consignee.

Based on the foregoing facts, the Collector of Customs, Port of Manila, found the subject vessel represented by respondent (now petitioner in this appeal) to be administratively liable and imposed an administrative fine of P10,000.00 for violation of Section 1005 in relation to Section 2521 of the Tariff and Customs Code, as amended.

On appeal, respondent Commissioner of Customs, in his decision dated August 21, 1985, affirmed *in toto* the collector's decision. Hence the present recourse.

The basic issue at bar is whether the vessel or her master is liable for the fine for violation of Section 1005, in relation to Section 2521, of the Tariff and Customs Code as amended, the pertinent provisions of which read:

> SEC. 1005. Manifest Required of Vessel from Foreign Port.- Every vessel from a foreign port must have on board a complete manifest of all her cargo.
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> All of the cargo intended to be landed at a port in the Philippines must be described in separate manifests for each port of call therein. Each manifest shall include the port of departure and the port of delivery with the marks, numbers, quantity and description of the packages and the names of the consignees thereof. x x x.
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> xxx xxx xxx
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> SEC. 2521. Failure to Supply Requisite Manifests.- If any vessel or aircraft 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 other than as stated in the next proceeding section hereof, such vessel or aircraft shall be fined in a sum

> not less than ten thousand (P10,000.00) pesos but not exceeding thirty thousand (P30,000.00) pesos.

Under Section 1005 of the Tariff and Customs Code, it is an imperative obligation of every vessel from a foreign port to have on board a complete manifest of all her cargo, which shall include the port of departure and the port of delivery with the marks, numbers, quantity and description of the packages and the names of the consignees thereof, and to this mandatory requirement no exception is provided by law. The recognition of any attempt to read into the statute any exception would be contrary to the pervasive spirit as well as the clear language of the statute. (Smith, Bell & Co. (Phil.) Inc. vs. Comm. of Customs, CTA Cases Nos. 1728 & 1921, July 22, 1969; Macondray & Co., Inc. vs. Comm. of Customs, CTA Case No. 1930, December 27, 1969, certiorari denied in G.R. No. L-31599, Feb. 10, 1970; Compania General de Tabacos de Filipinas vs. Comm. of Customs, CTA Case No. 2143, June 30, 1972; Macondray & Co., Inc. vs. Comm. of Customs, CTA Case No. 2079, Sept. 29, 1972; Macondray & Co., Inc. vs. Comm. of Customs, CTA Case No. 2067, Oct. 6, 1972; Macondray & Co., Inc. vs. Comm. of Customs, CTA Case No. 2073, Nov. 25, 1972; Macondray & Co., Inc. vs. Comm. of Customs, CTA Case No. 2203, June 15, 1973; Macondray & Co., Inc. vs. Comm. of Customs, CTA Case No. 2082, Sept. 17, 1974; Macondray & Co., Inc. vs. Customs, CTA Case No. 2484, Jan. 19, 1976; Macondray & Co., Inc. vs. Comm. of Customs, CTA Case No. 2472, Nov. 28, 1977; Macondray & Co., Inc. vs. Comm. of Customs, CTA Case No. 2503, July 31, 1978; Compania General de Tabacos de Filipinas vs. Comm. of Int. Rev., CTA Case No. 2559, Dec. 28, 1979.)

Thus the defenses of clerical error, good faith and lack of fraudulent intent in cases of this nature, as well as the defense that an amendment to the vessel's manifest was allowed by the Bureau of Customs, are unavailing and futile under said provisions of Sections 1005 and 2521 of the Tariff and Customs Code, and will neither exculpate nor relieve the offending vessel from the penalty of fine. (Macondray & Co., Inc. vs. Comm. of Customs, CTA Case No. 1930, Dec. 27, 1969, certiorari denied in G.R. No. L-31599, Feb. 10, 1970; Everett Steamship Corp. vs. Comm. of Customs, CTA Case No. 1968, August 25, 1971, certiorari denied in G.R. No. L-34146, Oct. 7, 1971; Macondray & Co., Inc. vs. Comm. of Customs, CTA Case No. 2079, Sept. 29, 1972; Macondray & Co., Inc. vs. Comm. of Customs, CTA Case No. 2067, Oct. 6, 1972; Compania General de Tabacos de Filipinas vs. Comm. of Customs, CTA Case No. 1939, Feb. 26, 1971, certiorari denied in G.R. No. L-33386, April 14, 1971; Macondray & Co., Inc. vs. Comm. of Customs, CTA Case No. 1911, April 20, 1970.)

The rationale of such doctrine, which has been repeatedly cited by this Court, was enunciated in U.S. vs. The Steamship "Rubi", 32 Phil. 228, thus:

> The evident intent and object of these requirements for the submission of manifests by all vessels from foreign ports is to impose upon the owners and officers of such vessels an imperative obligation to submit lists of the entire lading of the ship in the prescribed form, in order to facilitate the labors of the Customs and immigration officers, and to defeat any attempt to make use of such vessels to secure the unlawful entry of persons or things into the country. No exemption is made in the statute, and the recognition of any attempt to read an exception into the law could hardly fail to defeat the purpose of the enactment.

(See also American Steamship Agencies, Inc. vs. Comm. of Customs, CTA Case No. 1851, May 3, 1977; N & E Shipping Agency vs. Comm. of Customs, CTA Case No. 2629, Oct. 30, 1978; Compania General de Tabacos de Filipinas vs. Comm. of Customs, CTA Case No. 2559, Dec. 28, 1979; F.E. Zuellig (M) Inc. vs. The Comm. of Customs, CTA Case No. 3542, Oct. 18, 1984.)

We find no valid and cogent reason to modify or depart from the conclusion reached in the above-cited cases, and the same should resolve the similar problem now brought before us in this appeal. Accordingly, the imposition of an administrative fine of P10,000.00 against the vessel M/S "JOHN BAKKE", represented here by petitioner Warner Barnes & Co., Inc., as its ship agent, is sustained.

WHEREFORE, the Court hereby denies the petition for review for lack of merit and affirms the decision appealed from, at petitioner's costs.

SO ORDERED.

Quezon City, Metro Manila, August 29, 1988.

Amante Filler

AMANTE FILLER
Presiding Judge

WE CONCUR:

CONSTANTE C. ROAQUIN
Associate Judge

ALEX Z. REYES
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