REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

AMERICAN PRESIDENT LINES
(as agent in the Philippines
of the SS "PRESIDENT WILSON"),
Petitioner,

- versus - C.T.A. CASE NO. 2202

COMMISSIONER OF CUSTOMS,
Respondent.

5/6/74

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D E C I S I O N

This is an appeal from the decision of respondent Commissioner of Customs dated October 2, 1970, which affirmed that of the Collector of Customs for the Port of Manila in Customs Case No. 966, imposing an administrative fine of ₱2,000.00 on the vessel SS "PRESIDENT WILSON" for alleged violation of Section 1005 of the Tariff and Customs Code, in relation to Section 2521 of the same Code.

It appears that on February 22, 1967, the SS "PRESIDENT WILSON", an ocean going vessel with Reg. No. 308 and of which petitioner is the local ship agent, arrived at the Port of Manila. On February 24, 1967, the then Acting Head of the Customs Police submitted a memorandum to the Collector of Customs reporting that 12 known commuters arrived on the said vessel with 201 packages of various shapes and sizes which contained highly dutiable goods in commercial quantity intended for resale with an estimated value of ₱150,000.00. Said packages were merely declared in the Baggage Waybill, and, therefore, were treated merely as accompanied or cabin baggages.

In a letter dated March 28, 1967, the Collector of Customs required petitioner to submit a written explanation and to show cause why no administrative fine should be imposed on the SS "PRESIDENT WILSON" for conveying unmanifested cargo. On October 9, 1967, the Collector of Customs imposed a fine of ₱2,000.00 on the same vessel for failure to submit the required explanation. In a letter dated November 15, 1967, counsel for petitioner informed the Collector of Customs that such explanation was contained in a letter dated April 28, 1967, which was sent to the Chief, Law Division of the Bureau of Customs and requested that their client be granted a formal hearing.

On June 25, 1969, the Collector of Customs, after due hearing, rendered a decision holding the SS "PRESIDENT WILSON" liable for violation of Section 1005 of the Tariff and Customs Code, in relation to Section 2521 thereof. On appeal by petitioner to the Commissioner of Customs, the latter affirmed the Collector's decision. Hence, the present appeal.

The issue presented for our consideration is whether the declaration of the packages in the Baggage Waybill of the SS "PRESIDENT WILSON" constitutes a sufficient compliance with the requirement of the law.

The pertinent portions of Section 1005 and 2521 of the Tariff and Customs Code, upon which the imposition of the fine on the SS "PRESIDENT WILSON" was based, provide as follows:

> 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 a 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. Every vessel from a foreign port must have on board complete manifests of passengers and their baggage, in the prescribed form, setting forth their destination and all particulars required by the immigration laws; and every such vessel shall have prepared for presentation to the proper customs official upon arrival in ports of the Philippines a complete list of all sea stores then on board. If the vessel does not carry cargo or passengers the manifest must show that no cargo or passenger, as the case may be, is carried from the port of departure to the port of destination in the Philippines.
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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 preceding section hereof, such vessel or aircraft shall be fined in sum not exceeding ten thousand pesos.
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The decision of respondent is assailed on the grounds that petitioner has no authority to open the passengers' baggages and, therefore, had no opportunity to ascertain what the contents were or whether they were in commercial quantity; that no evidence was adduced by the Government to show that the 201 packages contained goods in commercial quantity or were highly dutiable; and, that under the Tariff and Customs Code, it is enough that the baggages of personal effects are covered by waybill. Furthermore, petitioner alleges that no bad faith or fraud was committed, hence, the fine of ₱2,000.00 is harsh and excessive and prays that the same be reduced.

We are not convinced by petitioner's arguments. While it may be true that petitioner had no opportunity to ascertain the contents of the passengers' baggages and no evidence was presented to show that the goods were in commercial quantity or were highly dutiable, it is undisputed that several passengers from Hongkong to Manila had baggages weighing more than 350 lbs. each, thereby exceeding the maximum weight allowed each of them. One passenger alone exceeded the free allowance by as much as 3,350 lbs.[1] Obviously, the articles brought by said passengers can hardly be considered personal effects. Even the "Information and

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[1] Exh. "A", p. 35, Customs rec.

Declaration"[1] for all passengers from Hongkong to Manila require the proper documentation of baggages of non-personal effects and limit cabin baggages to two suitcases, each not to exceed 50 lbs. per adult passenger. It follows that non-personal effects or personal effects in excess of the limit set should have been manifested.

This Court has repeatedly sustained the imposition of a fine by respondent for failure of a vessel to have a complete manifest of all the cargoes laden on board, rejecting the mere use of bills of lading and other documents in compliance with the requirement of the law. (See Macondray & Co., Inc. vs. Acting Comm. of Customs, C.T.A. Case No. 1641, Nov. 15, 1965; Macondray & Co., Inc. vs. Comm. of Customs, C.T.A. Case No. 2079, Sept. 29, 1972; Macondray & Co., Inc. vs. The Acting Comm. of Customs, C.T.A. Case No. 1829, February 15, 1974.) We find no justification to deviate from this well established doctrine.

As regards the amount of the fine, we are of the opinion that the amount fixed in the decision

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1 Pp. 36-79, Customs rec.

appealed from is not excessive considering the circumstances of the case.

WHEREFORE, the decision appealed from is hereby affirmed. With costs against petitioner.

SO ORDERED.

Quezon City, May 6, 1974.

ROMAN M. UMALI
Presiding Judge

I CONCUR:

RAMON L. AVANCEÑA
Associate Judge

Associate Judge ESTANISLAO R. ALVAREZ
did not take part.