Library

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SEA-LAND SERVICE, INC.,
Petitioner,

- versus -

C.T.A. CASE NO. 3529

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

2/29/84

D E C I S I O N

An appeal from the Commissioner of Customs' decision dated August 31, 1982 affirming the Collector's (Port of Manila) decision in Administrative Cases Nos. V-10301/79 and V-10302/79 which imposed a fine of ₱30,000.00 in each of the cases for violation of Section 1005 in relation to Section 2521 of the Tariff and Customs Code on unmanifested cargoes, which read in part:

> 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.
>
> 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 names of the consignees thereof.
>
> x x x x x x x x x
>
> 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 a sum not less than ten thousand (₱10,000.00) pesos but not exceeding thirty thousand (₱30,000.00) pesos.
>
> x x x x x x x x x

The records show that petitioner in its capacity as operator and/or agent of the subject ocean going vessels had on separate occasions conveyed and discharged cargoes in two container vans at the Port of Manila declared in the corresponding Inward Foreign Manifests as "said to contain" - (1) used household goods and personal effects; and (2) 16 pallets of 164 bags of polyethelene, entered on November 3, 1978 and October 20, 1978, respectively. As verified, however, the same yielded also unmanifested cargoes, viz: a unit of a 1979 Mercury "Monarch" car; and 704 bags of polyethelene DFP 6005 synthetic resin (an excess of 504 bags). To effect their release from customs custody the manifests were accordingly amended without prejudice to the institution of the appropriate administrative actions against the carriers. In the subsequent proceedings filed under Administrative case No. V-10301/79(S.S. Mayaquez, Registry No. 2365) and Administrative Case No. V-10302/79 (S.S. Mayaguez, Registry No. 2266), the Collector of Customs found both cases violative of Section 1005 in relation to Section 2521 of the Tariff and Customs Code, as amended, <u>supra</u>, and each was meted an administrative fine of ₱30,000.00, in a decision rendered on February 14, 1980, which on appeal by petitioner (vessels), the same was affirmed by the respondent Commissioner of Customs on August 31, 1982. Hence, the present petition.

Petitioner raises the issues of 1) Whether or not a violation of Section 1005 in relation to Section 2521 of the Tariff and Customs Code has been committed; and 2) Assuming that the provisions apply to containerized shipments, whether or not the imposition of the enormous fines is proper.

By and large petitioner contends that "It had absolutely no prior knowledge that the vans contained items not reflected in the manifest, that it had to rely on the shipper's declarations as the van was a CY-CY shipment received by the petitioner in sealed condition, and that it had no fraudulent intent whatsoever in basing the manifest on the shipper's representations." Moreover, the omissions were committed in good faith and amendments correcting the errors in the manifests were duly filed and approved by the Bureau fo Customs.

What we have in the case at bar are virtual Pandora's boxes of incriminating shipments the importation of which was found in positive breach of the governing statutory proscription. Indeed, there can be no further occasion to speculate upon how the peremptory demand that "Every vessel from a foreign port must have on board a complete manifest of all her cargo" (Section 1005, <u>supra</u>), which far from showing any mere resemblance of an illusion, should be enforced. As, "The mandate of the law is clear and we cannot settle for less. The law imposes the absolute obligation, under penalty for failure, upon every vessel from a foreign port to have 'on board complete written or typewritten manifests of all her cargo signed by the master'. Where the law requires a manifest to be kept or delivered, it is not complied with unless the manifest is true and accurate." (U.S. v. S.S. Islas Filipinas, 28 Phil. 291; cited in Macondray & Co., Inc. v. Acting Commissioner of Customs, 62 SCRA 432). xxx. Upon the records before us there is nothing to take the case out of the operative effects of the cited codal provisions as understood and applied.

Petitioner's proffered good faith and disclaimer to any knowledge of the undeclared items in the containerized cargo can no longer be a prospect that can easily be reconciled with the intended imperative. Conveyed and discharged were unmanifested cargoes falling sharply at odds with the caveat essentially addressed and directly brought to bear upon the carriers, requiring a manifest of a true and accurate description of all the cargo. And, "Doing business in the Philippines, it behooves the master or owner of the vessel to abide by our customs laws and regulations and to ignore them is nothing short of carelessness and incompetence." (Delgado Shipping Agencies, Inc. v. Commissioner of Customs, G.R. L-46262, July 6, 1977). In a ruling of similar import this Court said "We can do no less but hold the herein petitioner accountable for such deviation from the peremptory demands of the law, the proffered good faith as an encapsulating panacea in bashing the delinquency notwithstanding. This specie of irregularity was not propitious then, it cannot, now." (Delgado Shipping Agency, Inc. v. Commissioner of Customs, CTA Case No. 3089, December 28, 1981).

Petitioner must come to grip with the facts obtaining, nothing more. Having taken the responsibility petitioner must assume full accountability for the undertaking in fealty to the governing law and regulations. The Customs law could not have wished the respondent to merely rubber-stamp an imprimatur of acquiescence over a "said to contain" declaration. And we do not think that by the simple expediency of containerization the law can be flouted with impunity and its efficacy defused in a cul de sac of impotency. The chips must somehow fall and having fallen the erring vessels must bear the statutory penalty so ordained in Section 2521 of the Tariff and Customs Code, <u>supra</u>, which directs the imposition of a fine in the sum of ₱10,000.00 but not more than ₱30,000.00.

The statute makes no distinction nor does it establish an exception as regards the vessel's failure to supply the requisite manifest. Subsequent amendment adds no insulating relief for "even granting arguendo, that the amendment was approved and therefore valid it does not in any way relieve the vessel from the liability which she already incurred prior to the amendment." (Macondray & Co., Inc. v. Actg. Commissioner of Customs, 62 SCRA 434).

Relative to petitioner's nibble on the reduction of the "enormous" fines suffice it to state that the amount imposed is not without authority nor logic as thus ruled in an analogous case, "The clear purpose of the codal provision requiring vessels to declare the correct weight of their cargo is to curb smuggling due to such under-declaration. Hence, imposing the maximum fine on vessels which fail to comply with the obligation to declare the true weight of their cargo promotes the spirit and purpose of the law since imposing a minimum fine would embolden would be smugglers." (Commissioner of Customs, v. CTA, et al., 91 SCRA 262). The administrative fines imposed in the instant case are in accordance with the cited codal provision and having shown no abuse of discretion on the part of the Customs' officials, we leave the same to remain.

IN VIEW OF ALL THE FOREGOING, the decision appealed from is hereby affirmed with costs against the petitioner.

SO ORDERED.

Quezon City, Metro Manila, February 29, 1984.

ALEX Z. REYES
Associate Judge

WE CONCUR:

AMANTE FILLER
Presiding Judge

CONSTANTE C. ROAQUIN
Associate Judge