REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

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

- versus - C.T.A. CASE NO. 4029

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

1/16/89

D E C I S I O N

This case is about an administrative fine imposed against petitioner's vessel, SS "President Taft", for violation of Section 1005 in relation to Section 2521 of the Tariff and Customs Code.

On December 19, 1977, SS "President Taft" under Registry No. 2621 arrived at the Port of Manila. Among the shipments on board is a box of Power Shovel Parts of fifty (50) kgs. consigned to petitioner, APL Manila, as so manifested in the covering Bill of Lading No. 152847. Subsequent Customs examination however shows that the cargo has for its consignee CITIBANK, grossing one hundred eighty-one (181) kgs. In rectification of the error petitioner sought an amendment to the manifest which the Customs authorities approved but without prejudice to any administrative action that may be warranted under the premises.

On May 22, 1978, the Collector of Customs of Manila instituted the appropriate administrative proceedings against the erring vessel pursuant to the aforesaid pertinent provisions of the Tariff and Customs Code. As a consequence, an administrative fine of P30,000 was imposed. (Customs Administrative Case No. V-10132-81, January 13, 1979). On appeal by the petitioner, the Commissioner of Customs affirmed the Collector's decision. (Customs Case No. 81-26, October 15, 1985)

Hence, this petition for review.

In assailing the decision, petitioner contends that the discrepancy bearing on the designated consignee as well as under declaration of weight, was due to typhographical errors committed in good faith with no intention to violate the law or defraud the government. Morever, the corresponding import liabilities on the whole cargo were voluntarily paid after the amendment was approved, entered and attached to the original manifest, as such, the administrative fine of P30,000 was unjustly and unreasonably imposed.

Respondent's unvarying assertion is such that the vessel conveyed and discharged an unmanifested cargo. The law makes it an imperative obligation of every vessel coming from a foreign port to have on board a complete and correct manifest of all her cargo. No exception is made in the statute and any attempt to read one into it could hardly fail to defeat the purpose of the enactment. Any such defense of honest mistake, lack of fraudulent intent to defraud the government, or even good faith, is of no consequence as to relieve the vessel from liability.

Be that as it may. The simple question for consideration is whether there was clearly an error in the respondent's conclusion that petitioner failed compliance with the indispensable requirement that "Every vessel coming from a foreign port must have on board a complete manifest of all her cargo" (Section 1005, Tariff and Customs Code). Having thus failed to accurately indicate the weight of the cargo the sanction in Section 2521, ibid, finds application, that if any vessel enters without submitting the proper manifests, or conveys unmanifested cargo "such vessel or aircraft shall be fined in a sum not less than ten thousand pesos (P10,000) but not exceeding thirty thousand (P30,000) pesos.

We disagree with the respondent Commissioner.

In this case there is neither a failure or omission to submit the requisite manifest nor omission to include any cargo in the manifest. The cargo itself and its particulars including the weight are listed and described in the manifest. Although the weight appears to be underdeclared, such cannot constitute violative of said Section 2521, since for all legal purposes a proper manifest had been filed covering the cargo. As thus held in a case of similar import, "The proper manifest as provided in Section 2521 should be interpreted to mean a complete manifest as provided for in Section 1005 aforecited, the pertinent portion of which provides:

> "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. (Underscoring supplied)

The law does not even require the weight of the cargo to be specified. Thus, the inclusion of the weight of the cargo in the manifest in a lesser amount than its actual gross weight does not thereby render the manifest incomplete. There is no breach of Section 2521 aforesaid under these circumstances." (**Commissioner of Customs vs. Court of Tax Appeals & Smith Bell & Co., Inc.**, G.R. L-41861, March 23, 1987).

The failure to declare the correct weight in the manifest may however be penalized under Section 2523 of the Tariff and Customs Code under certain conditions which precisely contemplates such situation reading as follows:

> SEC. 2523. Discrepancy Between Actual and Declared Weight of Manifested Article. - If the gross weight of any article or package described in the manifest exceeds by more than twenty (20) per centum the gross weight as declared in the manifest or bill of lading thereof, and the Collector shall be of the opinion that such discrepancy was

> due to the carelessness or incompetency of the master or pilot in command, owner or employee of the vessel or aircraft, a fine of not more than fifteen (15) per centum of the value of the package or article in respect to which the deficiency exists, may be imposed upon the importing vessel or aircraft.

But any liability that could have been incurred under the said provision appears neither here nor there in the assailed decision. "And to suggest that liability can be incurred under both Sections 2521 and 2523 aforestated in the instant case would render nugatory the principle against double jeopardy" (Ibid.)

It may suffice to state that the petitioner filed an amendment to correct the weight declared which amendment was approved by the Bureau of Customs. It amply demonstrates the diligence and good faith of petitioner.

WHEREFOR respondent's decision is hereby set aside and the administrative fine against petitioner cancelled. No costs.

SO ORDERED.

Quezon City, Metro Manila, January 16, 1989.

ALEX Z. REYES
Associate Judge

WE CONCUR:

AMANTE FILLER
Presiding Judge

CONSTANTE C. ROAQUIN
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