REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

MACONDRAY & CO., INC.,
in its capacity as agent of
the MS "Toreador,"
Petitioner,

- versus - C.T.A. CASE NO. 2069

COMMISSIONER OF CUSTOMS,
Respondent.
X - - - - - - - - - - - - - - - - - X

DECISION

Petitioner has appealed from the decision of respondent Commissioner of Customs dated November 27, 1969, affirming that of the Collector of Customs of Manila imposing a fine of ₱1,000.00 on the vessel MS "Toreador" for violation of Section 1005, in relation to Section 2521 of the Tariff and Customs Code.

On April 7, 1964, the vessel MS "Toreador" arrived at the port of Manila, conveying, among others, a manifested cargo of one crate of observatory equipment which it failed to unload and discharge thereat. On May 16, 1964, the same vessel called again at the same port. The same cargo was brought and discharged from the same vessel but this time the same cargo was not listed in the manifest. Thereafter, the ship agent Macondray & Co., Inc., filed an amendment to the manifest by including therein said one (1) crate of observatory equipment (Exh. "A", p. 6, Customs rec.), which amendment was accepted and approved by the Bureau of Customs without prejudice to the filing of an administrative action against the vessel. On October 10, 1969, after the termination of the administrative proceeding, the Collector of Customs of the Port of Manila rendered a decision holding the vessel MS "Toreador" liable for a fine of ₱1,000.00 for violation of Section 1005, in relation to Section 2521 of the Tariff and Customs Code. On November 27, 1969, the Commissioner of Customs affirmed the said decision. Hence, this appeal.

The only issue submitted to this Court for resolution is whether or not the vessel MS "Toreador" is liable for the administrative fine for violation of Section 1005, in relation to Section 2521 of the Tariff and Customs Code.

Section 1005, in relation to Section 2521 of the Tariff and Customs Code, provides, among others, 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.

> 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. x x x.
>
> A cargo manifest shall in no case be changed or altered after entry of the vessel, except by means of an amendment by the master, consignee or agent thereof, under oath, and attached to the original manifest; x x x.
>
> Section 2521. <u>Failure to Supply Requisite Manifests</u>.- 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 thereof, such vessel or aircraft shall be fined in a sum not exceeding ten thousand pesos.

The issue before us is not new. In a previous case between the same parties (Macondray & Co., Inc. vs. Commissioner of Customs, C.T.A. Case No. 2484, Jan. 19, 1976), involving similar issue and factual setting, this Court held:

> Petitioner's contention is untenable. Although the cargo was manifested during the vessel's first voyage, the fact remains that it did not discharge said cargo on the particular voyage; and it failed to have the cargo manifested on its second voyage. In the circumstances, it is an indispensable legal requirement that every time a vessel arrives in the Philippines from a foreign port, it must have a complete manifest of all its cargo which are intended to be unloaded and discharged at our legal ports of entry. Thus, it was held:
>
> > 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. No exception is

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> mentioned in the statute. Neither is there mention of any exception in Section 2521 of said Code providing for a fine for vessels without proper manifests, nor in Section 2530 thereof providing for the confiscation of unmanifested goods. The recognition by the Court of any attempt to read into the statute any exception, such as misshipment of goods, would be contrary to the pervasive spirit as well as the clear language of the aforesaid provisions. (Smith Bell & Co., (Phil.) Inc. vs. Comm. of Customs, C.T.A. Cases Nos. 1728 & 1921, July 22, 1969; Macondray & Co., Inc. vs. Comm. of Customs, C.T.A. Case No. 2067, Oct. 6, 1972).

Petitioner's defense of good faith and the acceptance and approval by the Bureau of Customs of an amendment to the manifest had invariably been rejected by the Tax Court in previous cases involving the same controversial issue. (Macondray & Co., Inc. vs. Comm. of Customs, C.T.A. Case No. 2082, Sept. 17, 1974; Macondray & Co., Inc. vs. Comm. of Customs, C.T.A. CASE NO. 2203, June 15, 1973; Macondray & Co., Inc. vs. Comm. of Customs, C.T.A. Case No. 1992, April 4, 1973.) We find no valid justification to deviate from our ruling in those cases.

WHEREFORE, the decision of the respondent Commissioner of Customs appealed from is hereby affirmed. The vessel MS "Toreador" and/or petitioner herein, in its capacity as ship agent, are hereby ordered to pay to the Bureau of Customs the fine of ₱1,000.00. With costs.

SO ORDERED.

Quezon City, November 28, 1977.

CONSTANTE C. ROAQUIN
Associate Judge

I CONCUR:

AMANTE FILLER
Acting Presiding Judge