lib.

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

COMPAÑIA GENERAL DE TABACOS
DE FILIPINAS,
Petitioner,

- versus - C.T.A. CASE NO. 2144

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

1/5/76

D E C I S I O N

Petitioner has appealed from the decision of respondent Commissioner of Customs which affirmed *in toto* that of the Collector of Customs of Manila imposing upon the vessels SS "Luna Maersk" and SS "Lica Maersk" an administrative fine of ₱2,000.00 and ₱1,000.00, respectively, for conveying unmanifested cargo in violation of Section 1005 of the Tariff and Customes Code, penalized under Section 2521 of the same Code.

The records show that petitioner is the general agent in the Philippines for the Maersk Lines, a company engaged in the business of inter-ocean shipping which operates, among others, the vessels SS "Luna Maersk" and SS "Lica Maersk".

In November, 1968, a longshoremen's strike was declared in the port of New York which lasted several months. Notice of this strike was given in advance to shipping companies as well as to shippers. As a consequence, cargo shippers rushed shipments aboard available vessels. Among these vessels were the "Luna Maersk" and the "Lica Maersk". In the rush to beat the deadline set by the strikers, a shipment of 27/Drums Metal Working Compound and 6 packages of Rear Dump Truck Parts was loaded on board the vessel SS "Luna Maersk" which arrived on March 27, 1969, without proper manifest. Likewise, unmanifested cargo of 3 ctns. Gordos Bulbs was loaded on board the vessel SS "Lica Maersk" which arrived in Manila in April, 1969. Accordingly, administrative cases (V-471/69, V-474/69 and V-475/69) were filed against said vessels for conveying unmanifested cargo. Since the said cases involved the same parties and similar facts, they were jointly heard and a joint decision was rendered thereon by the Collector of Customs who found the vessels liable for violation of Section 1005 of the Tariff & Customs Code. Petitioner appealed to the Commissioner of Customs who, on May 12, 1970, affirmed _in toto_ the decision of the Collector of Customs. Hence, the instant appeal.

The only issue for determination is whether or not the imposition of the administrative fine against the vessels SS "Luna Maersk" and SS "Lisa Maersk" and/or its agent, petitioner herein, is in accordance with law.

Petitioner maintains that the said vessels are not subject to the administrative fine because the failure to manifest the cargo was not intentional but was due to honest mistake in the shipment of the cargo. The error, petitioner alleges, came about in the rush to beat the deadline and the resulting confusion arising from the strike in the port of New York.

Respondent, on the other hand, argues that good faith in the preparation of manifest is not a defense in avoiding the penalty imposed by Section 2521 of the Tariff and Customs Code for the violation of the provisions of Section 1005 of the same Code.

We find respondent's stand well taken. This Court has consistently held that a mistake committed in good faith does not relieve a vessel from liability under Section 2521 of the Tariff and Customs Code for carrying unmanifested cargo.

> // "Under Section 1005 of the Tariff & 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 mentioned in the statute. Neither is there mention of any exception in Section 2521 of the

said Code providing for a fine for vessels without proper manifests nor in Section 2530 thereof providing 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." (Compania General de Tabacos de Filipinas v. Commissioner, C.T.A. No. 2143, June 30, 1972; see also Macondray & Co. v. Commissioner, C.T.A. No. 2082, Sept. 17, 1974, and cases cited therein.)

On the basis of the doctrine laid down in the above cited cases, we find no sufficient reason to deviate from the foregoing pronouncement.

WHEREFORE, finding the decision appealed from in order, the same is hereby affirmed in toto. With costs against petitioner.

SO ORDERED.

Quezon City, January 5, 1976.

R M Umali
ROMAN M. UMALI
Presiding Judge

WE CONCUR:

Estanislao R. Alvarez
ESTANISLAO R. ALVAREZ
Associate Judge

Ramon L. Avanceña
RAMON L. AVANCEÑA
Associate Judge