REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

COMPAÑIA GENERAL DE TABACOS
DE FILIPINAS,
Petitioner,

- versus - CTA. CASE NO. 2699

THE COMMISSIONER OF CUSTOMS,
Respondent.
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DECISION

Petitioner Compañia General de Tabacos de Filipinas, in its capacity as ship agent in the Philippines for the Maersk Line, a company engaged in the business of inter-ocean shipping, is seeking the review of the decision of respondent Commissioner of Customs dated May 12, 1975 (Customs Case No. 74-146), affirming in toto the decision of the Collector of Customs of the Port of Manila dated October 17, 1974 holding the latter's vessel, the M/S "Cecilie Maersk", liable for an administrative fine in the amount of ₱5,000.00 for violation of Section 1005, in relation to Section 2521 of the Tariff and Customs Code of the Philippines, as amended.

It appears from the records and pleadings that petitioner is the general agent in the Philippines for the Maersk Line, a company engaged in the business of inter-ocean shipping. On December 29, 1973, the vessel M/S "Cecilie Maersk" with Registry No. 2280 arrived at the Port of Manila from New York, U.S.A. and unloaded from the said port cargoes which were not listed in its manifest consisting of nineteen (19) cases of sodium sulphate compound, marked "PHILUSA-157, SHAW PHILIPPINES." And as a consequence of the non-listing of these cargoes, an amendment was made to the said ship's manifest and filed by the ship agent, the Compañia General de Tabacos de Filipinas, which the Bureau of Customs has approved, subject to the condition that the approval was "without prejudice to an administrative action against the vessel". Subsequently, Administrative Case No. V-809/74 was instituted against the aforementioned vessel before the Collector of Customs for carrying unmanifested cargo contrary to the provisions of Section 1005 in relation to Section 2521 of the Tariff and Customs Code, as amended.

During the administrative hearing conducted in the Bureau of Customs, petitioner Compañia General de Tabacos de Filipinas, representing the said vessel, and the Bureau of Customs, through its counsel, have to agree in order to abbreviate the proceeding, and in fact had entered into a stipulation on facts as follows:

> "1. That the Maersk Line is the shipping company that owned and operated the M/S "Cecilie Maersk" with Cia GRAL DE TABACOS DE FILIPINAS, as their local shipping agent in Manila.
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> "2. That an amendment to the Inward Cargo Manifest was made and applied for by the shipping agent, in connection with the 19 cases unmanifested cargo and was approved with a condition that such approval was without prejudice to an administrative action against the vessel.
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> "3. That the shipment was originally scheduled to be loaded on the M/S "Lexa Maersk", and was as a matter of fact manifested on the "Lexa Maersk", but through stevedoring error, was actually loaded aboard the "Cecilie Maersk."

"4. That the error resulting to an unmanifested cargo was already noted at the port of origin, and the addendum to that effect was prepared and airmailed to the Manila Office, but was delayed on its way arriving only after the vessel has left the port of Manila."

On October 17, 1974, or after the administrative hearing, the Collector of Customs of the Port of Manila rendered a decision imposing a fine of ₱5,000.00 against the vessel, the M/S "Cecilie Maersk" for violation of Section 1005, in relation to Section 2521, of the Tariff and Customs Code. On appeal by petitioner of the said decision of the Collector to the Commissioner of Customs, the said decision was affirmed by the latter on May 12, 1975. Hence, the instant appeal.

The only issue to be resolved is whether or not the subject vessel M/S "Cecilie Maersk" should be made liable for the penalty of fine as was imposed by the Collector of Customs of Manila, and affirmed by the Commissioner of Customs, for violation of Section 1005, in relation to Section 2521 of the Tariff and Customs Code, the pertinent provisions of which read 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. 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. It 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.

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. Provided, however, that after the invoice and/or entry covering an importation have been received and recorded in the office of the appraiser, no amendment of the manifest shall be allowed, except when it is obvious that a clerical error or any other discrepancy has been committed in the preparation of the manifest, without any fraudulent intent, discovery of which could not have been made until after examination of the importation has been completed.

SEC. 2521. Failure to Supply Requisite Manifest. - If any vessel or aircraft enters or departs from a port of entry without submitting the proper manifest to the customs authorities, or shall enter or depart conveying unmanifested cargo other than as stated in the next preceeding section hereof, such vessel or aircraft shall be fined in a sum not exceeding ten thousand pesos.

The arguments and defenses raised by petitioner in its petition for review and memorandum are the same as those raised by it in the administrative proceedings before the Bureau of Customs.

Petitioner contends that the cargo in question was actually manifested in the M/S "Lexa Maersk", another ship of the Maersk Line and intended to be loaded on the said vessel, it was however actually loaded through the error or mistake committed by the stevedors of the vessel M/S "Cecilie Maersk", where it was not manifested. It is also claimed by petitioner that it is a principle of law that errors which are committed without intent to defraud the Government are not subject to penalty under the provisions of Section 1005 of the Customs Law. Hence, it concludes that the subject vessel should not be held liable for an administrative fine.

On the other hand, respondent Commissioner of Customs contends that the requirement in Section 1005 of the Tariff and Customs Code is that every vessel coming from a foreign port must have on board a complete manifest of all her cargo and this is an imperative obligation of the vessel, and since the said law does not provide for an exception, the vessel in question, not having manifested its subject cargo, is liable for fine under Section 2521 of the Code.

We find respondent's contention well taken. This Court in previous cases has consistently and repeatedly ruled that the law makes it an imperative obligation of every vessel coming from a foreign port to have on board a complete and proper manifest of all her cargo, and to this mandatory requirement no exception is allowed by law. In the case of Compañia General de Tabacos de Filipinas vs. the Commissioner of Customs, CTA Case No. 2559 dated December 28, 1979, this Court ruled as follows:

> The Court agrees with the stand of respondent. In previous cases involving similar or identical issues, this Court has consistently and repeatedly ruled that the law makes it an imperative obligation of every vessel coming from a foreign port to have on board a complete and proper manifest of all her cargo, and to this mandatory requirement no exception is allowed by the statute.
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> > 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 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 the confiscation of unmanifested goods. The recognition by the Court of any attempt to read into the statute any exception, such as mis-shipment of goods, would be contrary to the pervasive spirit as well as the clear language of the aforesaid provisions. (Smith Bell and Co. (Phil.) Inc. vs. Comm. of Customs, CTA Cases Nos. 1728 & 1921, July 22, 1969; Compañia General de Tabacos de Filipinas vs. Comm. of Customs, CTA Case No. 2143, June 30,1972; Macondray & Co., Inc. vs. Comm. of Customs, CTA Case No. 2067, October 6, 1972; Macondray & Co., Inc. vs. Comm. of Customs, CTA Case No. 2082, Sept. 17, 1974; Macondray & Co., Inc. vs. Comm. of Customs, CTA Case No. 2484, Jan. 1, 1976; Compañia General de Tabacos de Filipinas vs. Comm. of Customs, CTA Case No. 2144, Jan. 5, 1976.) (Underlining supplied)

The fact that the omission to manifest a cargo was due to clerical error or short-shipment committed in good faith or without fraudulent intent or that the vessel's manifest was amended or corrected with the approval of the Bureau of Customs will not constitute a valid defense and relieve the vessel from liability. (See Macondray & Co., Inc. vs. Comm. of Customs, CTA Case No. 2079, Sept. 29, 1972; Macondray & Co., Inc. vs. Comm. of Customs, CTA Case No. 2067, Oct. 6, 1972; Everett Steamship Corp. vs. Comm. of Customs, CTA Case No. 1968, Aug. 25, 1971, Certiorari denied in G.R. No. L-34146, Oct. 7, 1971; Compañia General de Tabacos de Filipinas vs. Comm. of Customs, CTA Case No. 1939, Feb. 26, 1971; Macondray & Co., Inc. vs. Comm. of Customs, CTA Case No. 1911, April 20, 1970; Macondray & Co., Inc. vs. Comm. of Customs, CTA Case No. 1930, Dec. 27, 1969, Certiorari denied in G.R. No. L-31599, Feb. 10, 1970.)

And as clearly and explicitly stated by the Supreme Court in the case of U.S. vs. the Steamship "Rubi", 32 Phil. 228, the evident intent and object of these requirements for the submission of manifests by all vessels from foreign ports is to impose upon the owners and officers of such vessels an imperative obligation to submit lists of the entire lading of the ship in the prescribed form, in order to facilitate the labors of the Customs and Immigration Officers, and to defeat any attempt to make use of such vessels to secure the unlawful entry of persons or things into the country. No exemption is made in the statute, and the recognition of any attempt to read an exception into the law could hardly fail to defeat the purpose of the enactment. (American Steamship Agencies, Inc. vs. Comm. of Customs, CTA Case No. 1851, May 3, 1977.)

Consequently, the fact that the failure or omission to manifest the vessel's cargo was due to a clerical error (Macondray & Co., Inc. vs. Comm. of Customs, CTA Case No. 2503, July 31, 1978), cross-loading (Compania General de Tabacos de Filipinas vs. Comm. of Customs, CTA Case No. 2781, September 30, 1977) misshipment or delay in the mails of the original manifest sent from the port of loading (See Compania General de Tabacos de Filipinas vs. Comm. of Customs, CTA Case No. 2742, September 16, 1977), will not exculpate the vessel from the penalty of fine prescribed under Section 2521 of the Tariff and Customs Code.

We see no valid reason to depart from this ruling.

WHEREFORE, the decision of respondent Commissioner of Customs is hereby affirmed in toto, with costs against petitioner.

SO ORDERED.

January 24, 1980, Quezon City, Metro Manila.

CONSTANTE C. ROAQUIN
Associate Judge

I CONCUR:

Amante Filler

AMANTE FILLER
Acting Presiding Judge