

LUZ H. COLOMA, PETITIONER VS. COLLECTOR OF CUSTOMS AND COURT OF TAX APPEALS, RESPONDENTS.

G.R. No. L-14217. November 29, 1960

Ponente: LABRADOR, J.

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LABRADOR, J.:

Petition to review a decision of the Court of Tax Appeals, dated March 10, 1958, affirming a decision of the Collector of Customs, dated March 18, 1955, ordering the confiscation of 180 cases of merchandise covered by Seizure Identification Nos. 1956 and 1956-A.

On September 2, 1954, the Philippine Navy vessel RPS Misamis Oriental arrived in Manila from Japan carrying, as cargo, 180 packages of various dutiable merchandise. The shipment consisted of three groups (1) 137 packages consigned to the Philippine Army Post Exchange; (2) 23 packages, to the PNOB commissary; and (3) those belonging to individual persons, including officers of the Philippine Army and Navy. The customs authorities received no manifest for this cargo, and discovered it only when a policeman of the Bureau of Customs intercepted the truck carrying the cargo.

The Collector of Customs ordered the forfeiture of the merchandise because they are unmanifested cargo; were imported without permit from the Central Bank; and were not covered by the requisite consular invoice. On appeal to the Court of Tax Appeals, this Court sustained the forfeiture only for the reason that no consular invoice has been presented, in violation of Sections 17 and 18 of the Philippine Tariff Act of 1909. Said court declared, however, that Philippine Navy vessels are not required to present a manifest, but if one is required, the RPS Misamis Oriental has substantially complied with the requirements, and that there is no violation of Central Bank regulations because the importation did not involve sale of foreign exchange.

Before this Court, the petitioner assails the decision of the lower court on the ground that lack or absence of consular invoice is not a cause for forfeiture, but that the importer should be given reasonable time to secure the consular verification, or to file a bond for the production of the said invoice.

On the other hand, the Solicitor General calls the attention of this Court to the error of the lower court in holding that Philippine Navy vessels are not required to submit a manifest to the customs authorities.

In *Commissioner of Customs vs. Relunia*, 105 Phil., 875, and *Commissioner of Customs vs. Brillo*, G. R. No. L-11902, June 29, 1959, we declared that merchandise brought from Japan on board RPS Misamis Oriental, a Philippine vessel, must be covered by a manifest and that as none was presented, the Commissioner of Customs correctly decreed the forfeiture of the goods.

In the first case, this Court thru Mr. Justice Montemayor, said:

"The Tax Court took the view that under said Article VI of the Customs Law including the different sections of the Administrative Code under it, only vessels engaged in foreign trade are required to submit manifests upon entering any Philippine port. The Tax Court apparently overlooked the reason behind the requirement of

presenting a manifest and allowed itself to be swayed by the title of the law. * * *.

"The Tax Court also overlooked or failed to give due consideration to the provisions of Section 1228 which requires that every vessel from a foreign port or place must have on board complete written or typewritten manifests of all her cargoes. Said provision is quite comprehensive, if not all inclusive, with the exception perhaps of vessels mentioned in the second paragraph of Section 1221, namely, war vessels or vessels employed by any foreign government. This is presumably out of international courtesy. In our opinion all other vessels coming from foreign ports, whether or not engaged in foreign trade, arriving or touching upon any port in the Philippines should be provided' with a manifest which must be presented to the custom authorities. * * *

"We therefore believe and hold that the RPS 'Misamis Oriental' was required to present a manifest upon its arrival in Manila on September 2, 1954. * * *.

"In conclusion, we hold that all vessels whether private or government owned, including ships of the Philippine Navy, coming from a foreign port, with the possible exception of war vessels or vessels employed by any foreign government, not engaged in the transportation of merchandise in the way of trade, as provided for in the second paragraph of Section 1221 of the Revised Administrative Code, are required to prepare and present a manifest to the customs authorities upon arrival at any Philippine port."

The decision of the Court of Tax Appeals in the case at bar is hereby affirmed on the ground that the cargo in question is unmanifested. This resolution renders unnecessary the determination of the other questions raised in the petition. Costs against the petitioner.

Paras, C.J., Bengzon, Padilla, Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, Gutierrez David, Paredes, and Dizon, JJ., concur.

Decision affirmed.

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