

THE COMMISSIONER OF CUSTOMS, PETITIONER VS. LT. ALEX V. BRILLO, PN. DOING BUSINESS UNDER THE NAME AND STYLE “PNOB COMMISSARY, RESPONDENT.

G.R. No. 11902. June 29, 1959

Ponente: BENGZON, J.

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BENGZON, J.:

The Commissioner of Customs has asked for review of the decision of the Court of Tax Appeals which overruled his order of July 30, 1954, decreeing the forfeiture of 23 cases of merchandise consigned to the Philippine Navy Operating Base Commissary - hereafter called PNOB Commissary, for short.

It appears that when on September 2, 1954, the Philippine Navy vessel RPS "Misamis Oriental" (LST - 40) arrived at Manila from Japan it carried, as cargo, 180 packages containing various dutiable articles. The Customs authorities received no manifest of this cargo; but they discovered its presence after Port Patrol Policeman Javier had intercepted a truckload of said packages upon receipt of confidential information.

The shipment consisted of three groups: (1) those supposed to be for the Philippine Army Post Exchange (137 packages); and (2) those for the PNOB Commissary (23 packages); and (3) those belonging to individuals, including officers of the Philippine Army and Navy.

The Acting Collector of Customs, and on appeal, the Commissioner of Customs, decreed the forfeiture of the goods as unmanifested cargo, and as importation made without prior permit from the Central Bank.

In due time, the PNOB Commissary carried the dispute to the Court of Tax Appeals, as regards the 23 packages consigned to it. Said Court disapproved the forfeiture and ordered the release of the goods, expressing the opinion that there was no need to submit a manifest, the vessel being a unit of the Philippine Navy, and that no license from the Central Bank for such importation was necessary.

The Customs Commissioner appealed to this Court.

This petition for review must necessarily be decided in accordance with our opinion in the Commissioner of Customs v. Relunia [1] in connection with the first group of 137 packages consigned to the Philippine Army Post Exchange. As heretofore stated, these three groups of packages totalling 180, were brought in from Japan on the same vessel, and on the same occasion. In said Relunia decision, we reversed the Court of Tax Appeals and we held the goods to be subject to forfeiture. Pertinent parts of decision, as penned by the Justice Montemayor, follows:

"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. x x x."

"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 of 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 customs authority. x x x."

"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."

The Court of Tax Appeals, however, believed and found that even if a manifest were required of the RPS "MISAMIS ORIENTAL", still, one was actually presented by one of its officers to customs authorities through one Mr. Casimiro de la Ysla on September 3, 1954. This, Ysla denied. And after carefully studying the evidence on record and considering the circumstances attending the case, we are inclined to agree with the collector of Customs and the Commissioner of Customs who upheld him that no such manifest required by the law was submitted to the customs authorities upon the arrival of the RPS " MISAMIS ORIENTAL".

"Again, it had always been the contention and the belief of the navy authorities that Philippine navy vessel were not required to prepare and deliver this manifest upon their arrival in the Philippines from foreign ports. x x x."

With this belief and attitude of the Philippine navy authorities, it was not likely that a manifest of the new goods carried by the RPS " MISAMIS ORIENTAL" was prepared on board while the boat was still in Japan, much less was a copy of the manifest if made was delivered to customs authorities. x x x."

Accordingly, reversing the decision of the Court of Tax Appeals, we hereby sustain the action of the customs authorities. Costs against respondents.

Paras, Padilla, Montemayor, Bautista Angelo, Concepcion, Endencia, and Barrera, JJ., concur.
Labrador, J., no part.

[1] G.R. L-11860

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