2 T.C. 184 (1943)

During a bankruptcy reorganization under Section 77B of the Bankruptcy Act, the trustee, and not the debtor corporation, is primarily liable for income taxes on income derived from operating the debtor's property.

Summary

415 South Taylor Building Corporation underwent reorganization under Section 77B of the Bankruptcy Act. A trustee was appointed who operated the corporation's apartment building. The trustee did not file an income tax return for 1935. The Commissioner assessed a deficiency against the corporation. The Tax Court held that the trustee, not the corporation, was primarily liable for the income tax during the period of the trusteeship. This decision hinged on the interpretation of tax laws in conjunction with bankruptcy provisions existing before the Chandler Act of 1938.

Facts

415 South Taylor Building Corporation owned and operated an apartment building. In December 1934, it filed a petition for reorganization under Section 77B of the Bankruptcy Act. The court appointed a trustee, Ralph W. Skillin, who was authorized to operate the property. The trustee operated the business throughout 1935. The trustee did not file an income tax return for 1935. The reorganization plan was confirmed in July 1935, and the corporation was restored to full control of its property in February 1936.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in the corporation's income tax for 1935, along with a penalty for failure to file a return. The corporation petitioned the Tax Court, arguing that the trustee was liable for the tax. The Tax Court ruled in favor of the corporation.

Issue(s)

1. Whether the income from the operation of the corporation's property by the trustee during the Section 77B reorganization was taxable to the corporation.
2. Whether the corporation was liable for the penalty for failure to file an income tax return for 1935.

Holding

1. No, because the trustee, having control over the property during the reorganization, was primarily liable for the income tax.
2. No, because the primary responsibility for filing the return rested with the trustee.

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Court’s Reasoning

The court relied on Section 52 of the Revenue Act of 1934, which requires trustees in bankruptcy operating a corporation’s property to make income tax returns for the corporation. It also cited Section 312, stating fiduciaries assume the powers, rights, duties, and privileges of the taxpayer. The court emphasized *Reinecke v. Gardner, 277 U.S. 239*, stating that because the trustee had legal title to the assets of the company the tax liability rested with him, not the corporation. The court distinguished cases where no trustee was appointed and the debtor corporation remained in possession. The court explicitly stated that the

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