10 T.C. 345 (1948)

A taxpayer cannot combine excess profits tax relief under Section 722 (for abnormalities in base period income) with the benefits of the 75% rule under Section 713(e)(1) if the 75% rule alone results in a higher excess profits credit.

Summary

Dowd-Feder, Inc. sought to increase its excess profits credit for 1942 by combining a reconstruction of its 1939 income under Section 722 due to a strike with the 75% rule of Section 713(e)(1), which allowed increasing a low-income year to 75% of the average of other base years. The Tax Court held that the taxpayer could not combine these benefits. If applying the 75% rule to the actual base period income yielded a higher excess profits credit than reconstructing income under Section 722, the taxpayer was not entitled to additional relief under Section 722. This decision affirmed the Commissioner's determination and followed precedent set in *Stimson Mill Co.* and *Homer Laughlin China Co.*

Facts

- Dowd-Feder, Inc. was an Ohio corporation distributing Chrysler and Plymouth automobiles.
- A strike at Chrysler factories from October 6 to November 28, 1939, disrupted Dowd-Feder's new car supply, negatively impacting its sales and earnings.
- Dowd-Feder filed for relief under Section 722, claiming the strike made its 1939 earnings abnormally low.
- The Commissioner agreed that the 1939 earnings were abnormally low and allowed a partial adjustment under Section 722 for 1941.
- Dowd-Feder sought to carry back an unused excess profits credit from 1942 to 1941, computing the 1942 credit by combining the Section 722 adjustment for 1939 with the 75% rule adjustment for 1938.

Procedural History

- The Commissioner determined a deficiency in income tax and an overassessment in excess profits tax for 1941.
- Dowd-Feder petitioned the Tax Court, contesting the Commissioner's calculation of the excess profits credit.
- The Tax Court upheld the Commissioner's determination, citing prior case law.

Issue(s)

1. Whether a taxpayer can combine the benefits of income reconstruction under Section 722 with the 75% rule under Section 713(e)(1) in calculating the excess profits credit.

Holding

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1. No, because if the excess profits credit resulting from the application of the 75% rule to the actual base period net income is greater than the credit computed using income reconstructed under Section 722, the taxpayer is not entitled to additional relief under Section 722.

Court's Reasoning

The Tax Court relied on its prior decisions in *Stimson Mill Co. v. Commissioner* and *Homer Laughlin China Co.*, which addressed the same issue. The court found that the taxpayer was essentially attempting to gain a double benefit by using both Section 722 and Section 713(e)(1) when Section 713(e)(1) already provided a more favorable outcome. The court stated that it had given "assiduous attention to petitioner's argument, but find ourselves unconvinced thereby. On authority of the cited cases, we affirm respondent." The stipulation of facts showed that applying the 75% rule to the unadjusted base period years resulted in a higher excess profits credit than applying the Section 722 adjustment. Therefore, the taxpayer was not entitled to any additional relief under Section 722.

Practical Implications

This case clarifies the interaction between Section 722 and Section 713(e)(1) of the Internal Revenue Code during the excess profits tax era. It establishes that taxpayers cannot selectively apply these provisions to maximize their tax benefits. The ruling reinforces the principle that tax laws should be interpreted to avoid providing unintended double benefits. Although these specific code sections are no longer applicable, the case illustrates a broader principle of statutory interpretation: taxpayers are not entitled to combine different relief provisions if one provision provides a greater benefit. Later cases involving similar statutory interpretation questions in other areas of tax law may find the reasoning in *Dowd-Feder* persuasive.

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