12 T.C. 665 (1949)

The Tax Court has jurisdiction to redetermine excessive profits under the Renegotiation Act, considering factors such as efficiency, contributions to the war effort, and reasonable profit margins, and is not bound by the Secretary's initial determination of renegotiable sales.

Summary

Bibb Manufacturing Co. challenged the Secretary of War's determination of $1,400,000 in excessive profits under the Renegotiation Act of 1942. Bibb argued the Act's unconstitutionality, the Tax Court's jurisdictional limitations, and the exclusion of certain sales from renegotiation. The Tax Court upheld the Act's constitutionality, affirmed its jurisdiction to redetermine excessive profits *de novo*, included waste charged to the government as renegotiable sales but excluded seconds/shorts sold for civilian use, and allowed a deduction for state income taxes. Ultimately, the court found $850,000 to be the excessive profit amount after considering several factors.

Facts

Bibb Manufacturing, a Georgia textile company, significantly increased production during World War II without expanding facilities, due to prior modernization efforts. It manufactured critical war materials like duck, drills, and parachute cord. Bibb utilized lower cotton grades, saving nearly $500,000 in 1942 and developed a cotton substitute for linen parachute cord, originally made of flax, which was in short supply due to the war. All sales were at competitive prices, without government premiums.

Procedural History

The Secretary of War unilaterally determined Bibb had excessive profits of $1,400,000 for the fiscal year ending August 31, 1942. Bibb petitioned the Tax Court for a redetermination. A Commissioner initially made findings of fact. The Tax Court, after considering the evidence and arguments, made its own determination of excessive profits.

Issue(s)

1. Whether the Renegotiation Act of 1942, as amended, is constitutional.

2. Whether the Tax Court's jurisdiction is limited to the amount of renegotiable sales determined by the Secretary.

3. Whether sales where deliveries and payments occurred before April 28, 1942, are subject to renegotiation.

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4. Whether sales of seconds and shorts, not used by the government, are subject to renegotiation.

5. Whether the value of waste should be excluded from renegotiable sales.

6. Whether state income taxes are deductible when determining profits from renegotiable sales.

7. What is the amount of excessive profits for the fiscal year ended August 31, 1942?

Holding

1. No, because the Renegotiation Act is constitutional based on precedent.

2. No, because the Tax Court has *de novo* jurisdiction to determine the correct amount of excessive profits, irrespective of the Secretary's initial determination.

3. Yes, because the statute applies to contracts where final payment was not made before April 28, 1942, even if some deliveries and payments occurred before that date.

4. No, because only sales of material paid for with appropriated government funds are subject to renegotiation.

5. No, because the waste was charged into the cost of goods sold to the Government.

6. Yes, because state income taxes are deductible for 1942.

7. $850,000, because after considering all factors, this amount represents the excessive portion of Bibb's profits.

Court's Reasoning

The court rejected Bibb's argument that it lacked jurisdiction to consider sales amounts greater than the Secretary's determination, stating that Section 403(e)(2) provides for a *de novo* proceeding. The court emphasized the Act applied to contracts, not individual shipments, unless final payment was made before the cutoff date. Regarding seconds and shorts, the court relied on prior precedent that only sales paid for with government funds were subject to renegotiation. Waste charged to the government was included. The court determined excessive profits by weighing factors, including Bibb's efficiency, contributions to the war effort, capital investment, and reasonable profit margins. The court stated, "It is incumbent upon this Court to make its own determination of excessive profits. It has done so after carefully considering all of the evidence and arguments…these and all other "factors" have been considered and given such weight as seemed appropriate under the circumstances in arriving at the determination that the profits were excessive in the amount of $ 850,000."

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Practical Implications

This case clarifies the Tax Court’s role in renegotiation cases, affirming its power to independently determine excessive profits, considering all relevant factors. It emphasizes that the renegotiation process extends to entire contracts, not just individual shipments, unless final payment occurred before April 28, 1942. It reinforces the principle that only sales directly or indirectly funded by the government are subject to renegotiation, which has implications for subcontractors and suppliers. It provides guidance on the factors to be considered when determining excessive profits under the Renegotiation Act and offers a historic view into war-time contracting and profit regulation.

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