15 T.C. 683 (1950)

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A taxpayer seeking relief from excess profits taxes under Section 722 of the Internal Revenue Code must demonstrate both that its average base period net income does not reflect normal operations and establish a fair and just constructive average base period net income.

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Summary

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Singer Bros., Inc. sought relief from excess profits taxes for fiscal years 1943-1946 under Section 722(b)(4) and (5) of the Internal Revenue Code, arguing that its incorporation in 1936 and subsequent credit restrictions significantly impacted its earnings during the base period. The Tax Court denied relief, holding that the company failed to adequately demonstrate that its average base period net income ($5,274.77) did not reflect normal operations and, critically, failed to establish a reliable constructive average base period net income exceeding this amount. The court found the taxpayer's proposed reconstructions flawed and inconsistent with statutory requirements.

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Facts

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Singer Bros., Inc. was incorporated in May 1936 to continue a candy jobbing business previously operated by Joseph S. Singer. The incorporation was initiated by creditors to manage Singer's debts. Trustees appointed by the creditors oversaw the business and implemented strict credit policies. The business had an exclusive distributorship with Schrafft's, a major creditor. The trustees initially restricted credit, but relaxed these restrictions around 1938. The company sought relief from excess profits taxes, claiming the incorporation and credit restrictions negatively impacted its earnings during the base period (1936-1939).

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Procedural History

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Singer Bros., Inc. filed corporate income, declared value excess profits tax, and excess profits tax returns for fiscal years ending April 30, 1943, 1944, 1945, and 1946. The Commissioner of Internal Revenue denied the company's claims for relief and refund under Section 722 of the Internal Revenue Code. Singer Bros., Inc. then petitioned the Tax Court for review of the Commissioner's decision.

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Issue(s)

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Whether Singer Bros., Inc. demonstrated that its average base period net income was an inadequate standard of normal earnings due to the commencement or change in character of its business under Section 722(b)(4) and (5) of the Internal Revenue Code.

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Holding

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No, because Singer Bros., Inc. failed to establish what would be a fair and just amount representing normal earnings to be used as a constructive average base period net income. The Tax Court found the taxpayer's reconstructions unreliable and inconsistent with statutory requirements.

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Court's Reasoning

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The Tax Court emphasized that to qualify for relief under Section 722, a taxpayer must demonstrate that its average base period net income is an inadequate standard of normal earnings and establish a fair and just constructive average base period net income. The court found Singer Bros.' reconstructions deficient for several reasons. The first reconstruction, using a

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