15 T.C. 894 (1950)

To qualify for relief from excess profits tax under Section 722 of the Internal Revenue Code, a taxpayer must demonstrate that its business was depressed due to conditions generally prevailing in its industry, that changes in business character resulted in higher normal earnings, and that any other claimed factors are consistent with the limitations of the statute.

Summary

Roy Campbell, Wise and Wright, Inc. sought relief from excess profits tax, claiming its base period earnings were an inadequate standard of normal earnings due to industry depression and changes in business operations. The Tax Court denied the claim, holding that the company failed to prove its business was depressed due to conditions impacting the entire industry, or that its operational changes resulted in a demonstrably higher level of normal earnings. Furthermore, the Court held that conditions relied upon to establish eligibility for relief under specific subsections of the code could not be considered as a separate basis for relief under another subsection.

Facts

Roy Campbell, Wise and Wright, Inc., a Texas corporation, engaged in buying and shipping vegetables and onions. Before 1936, the company purchased produce in carload lots from growers, who packed the goods themselves, leading to inconsistency in quality. In 1936, the company changed its business model to process and pack its own vegetables, aiming for uniformity and quality control. The company also started selling directly to jobbers instead of relying on commission merchants.

Procedural History

The Commissioner of Internal Revenue disallowed the company's claim for a refund of excess profits taxes for the fiscal year ending July 31, 1943. The company petitioned the Tax Court, arguing it was entitled to relief under sections 722(b)(3)(B), 722(b)(4), and 722(b)(5) of the Internal Revenue Code. The Tax Court upheld the Commissioner's decision.

Issue(s)

1. Whether the taxpayer demonstrated that its business was depressed during the base period due to conditions generally prevailing in its industry, as required for relief under Section 722(b)(3)(B) of the Internal Revenue Code.
2. Whether the taxpayer proved that changes in its business operations resulted in a higher level of normal earnings, justifying relief under Section 722(b)(4) of the Internal Revenue Code.
3. Whether conditions relied upon to establish eligibility for relief under specific

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subsections of the code could be considered as a separate basis for relief under another subsection.

Holding

1. No, because the taxpayer did not demonstrate that the conditions causing its business depression were generally prevalent throughout its industry.
2. No, because the taxpayer did not establish that the changes in its business policies resulted in a higher level of normal earnings.
3. No, because to consider the conditions relied upon by the petitioner to establish eligibility for relief under specific subsections as a separate basis for relief under another subsection would be inconsistent with the provisions of the former subsections.

Court's Reasoning

The Tax Court reasoned that to qualify for relief under Section 722(b)(3)(B), the taxpayer must show its business was depressed due to conditions impacting the entire industry, not just the taxpayer itself. Evidence showed competitors experienced profitable years during the base period, undermining the claim of general industry depression. Regarding Section 722(b)(4), the court stated that a change in business character only warrants relief if it demonstrably increases normal earnings, which the taxpayer failed to prove. The court emphasized that changes which do not necessarily serve to increase the earnings of the business do not meet the threshold for relief. "The nature or character of a taxpayer's business is at all times subject to many changes which do not necessarily serve to increase the earnings of the business but which in fact may actually result in substantial losses." Finally, the court followed *George Kemp Real Estate Co.*, stating that the same factors relied upon to establish eligibility for relief under specific subsections of the code cannot be considered as a separate basis for relief under another subsection. The court emphasized, regarding Section 722(b)(5), that relief granted under that section must

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