17 T.C. 882 (1951)

A taxpayer is entitled to relief under Section 722(b)(4) of the Internal Revenue Code if they demonstrate a change in the character of their business during the base period that materially altered operations.

Summary

Packer Publishing Company sought review of the Commissioner's disallowance of its applications for relief under Section 722 of the Internal Revenue Code, claiming refunds for excess profits taxes. The company argued it was entitled to relief due to a depressed newspaper business and changes in its comic supplement business. The Tax Court found that while the newspaper business did not qualify for relief, the changes in the comic supplement business did. The court also addressed the availability of unused excess profits credit carry-overs. Ultimately, the court determined that the company was entitled to a reconstructed base period income for its comic supplement business.

Facts

Packer Publishing Co. published trade newspapers for the wholesale fruit and vegetable industry. Besides its newspapers, the company printed Sunday comic supplements for other newspapers. From 1923 to 1938, Packer printed comic supplements for King Features Syndicate under contracts that eventually became unprofitable due to an increasing number of short runs. In 1939, Packer secured contracts with Newspapers Enterprise Association, involving larger print runs and simplified operations. The company claimed its newspaper business was depressed during the base period, and that the comic supplement business had fundamentally changed.

Procedural History

Packer Publishing Company filed applications for relief under Section 722 of the Internal Revenue Code for the years 1943, 1944, and 1945, seeking refunds of excess profits taxes. The Commissioner disallowed the applications. Packer then petitioned the Tax Court for review of the disallowance. The Tax Court considered the claims and the evidence presented.

Issue(s)

1. Whether Packer is entitled to relief under subsections 722(b)(2) or (b)(3)(A) with respect to its newspaper business.
2. Whether Packer is entitled to relief under subsection 722(b)(4) with respect to its comic supplement business.
3. Whether Packer is entitled to unused excess profits credit carry-overs from preceding years.
4. Whether the Tax Court has jurisdiction to recompute Packer's income and

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excess profits taxes to account for an increase in a bonus payable under a profit-sharing arrangement.

Holding

1. No, because Packer's newspaper business was not depressed due to temporary economic circumstances or a unique profit cycle.
2. Yes, because Packer demonstrated a change in the character of its comic supplement business during the base period.
3. Yes, because the unused excess profits credit carry-overs were properly claimed in applications for relief.
4. No, because there was no determination of a deficiency related to income or excess profits tax, depriving the court of jurisdiction over the bonus issue.

Court's Reasoning

The court reasoned that Packer's newspaper business did not meet the requirements for relief under subsections 722(b)(2) or (b)(3)(A). There was no showing of temporary economic circumstances or a unique profit cycle. Instead, the court found a long-term downward trend. Regarding the comic supplement business, the court found a significant change in operations due to the new contracts with Newspaper Enterprise Association. This constituted a

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