17 T.C. 1034 (1951)

A de facto corporation, even one that failed to properly file its certificate of organization, possesses the capacity to execute valid waivers extending the statute of limitations for tax assessments, provided the waivers are executed by authorized officers before the expiration of previously extended periods.

Summary

This case concerns the transferee liability of Helen and Max Epstein for the unpaid taxes of Mystic Cabinet Corporation. The central issue is whether waivers extending the statute of limitations for tax assessment were validly executed by the corporation's president, Eli Dane. The Tax Court held that because the corporation was a de facto corporation under Connecticut law, and because Dane executed the waivers in his capacity as president before the expiration of previously extended statutory periods, the waivers were valid. Therefore, the assessment of transferee liability against the Epsteins was timely.

Facts

Mystic Cabinet Corporation filed its tax return for the fiscal year ending October 31, 1942. While a certificate of incorporation was filed in Connecticut in 1941, the corporation never filed a certificate of organization. Eli Dane, the president, and Max Epstein, the treasurer, consulted on corporate matters. In 1943, the corporation distributed its assets to shareholders and ceased active business operations. On January 11, 1946, Dane, as president, executed a consent extending the assessment period to June 30, 1947. Similar waivers were executed on May 1, 1947, and April 29, 1948, extending the period to June 30, 1948, and June 30, 1949, respectively. The Commissioner sent notices of transferee liability to Helen and Max Epstein on May 19, 1950.

Procedural History

The Commissioner determined transferee liability against Helen and Max Epstein for the unpaid taxes of Mystic Cabinet Corporation. The Epsteins petitioned the Tax Court, arguing that the statute of limitations barred assessment and collection. The Tax Court consolidated the cases and ruled in favor of the Commissioner, upholding the validity of the waivers and the timeliness of the assessment.

Issue(s)

Whether waivers extending the statute of limitations for tax assessment were validly executed on behalf of Mystic Cabinet Corporation, thereby making the notices of transferee liability timely.

Holding

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Yes, because Mystic Cabinet Corporation was a de facto corporation under Connecticut law and its president executed the waivers before the expiration of previously extended periods, the waivers were valid, and the notices of transferee liability were timely.

Court's Reasoning

The Tax Court relied on Connecticut law to determine the validity of the waivers. It found that even though Mystic Cabinet Corporation never filed a certificate of organization, it was a de facto corporation, possessing the power to wind up its affairs, prosecute and defend suits, dispose of property, and distribute assets. The court cited Connecticut General Statutes (1930), section 3373. The court reasoned that the signature of the president (who had also signed prior valid waivers and tax returns) coupled with the corporate seal, was prima facie valid. The court distinguished cases cited by the petitioners, noting that those cases involved waivers signed after the statute of limitations had already expired or cases applying the laws of jurisdictions where corporate existence terminates completely. The court cited *Commissioner v. Angier Corp.*, 50 F.2d 887 and *Carey Mfg. Co. v. Dean*, 58 F.2d 737 for the proposition that a corporate seal is prima facie valid.

Practical Implications

This case clarifies that a corporation operating as a de facto entity, even with organizational defects, can still perform actions necessary to wind up its affairs, including executing tax waivers. It highlights the importance of local state law in determining the capacity of a corporation for federal tax purposes. Practitioners should carefully examine the specific state laws governing corporate dissolution and winding-up periods when assessing the validity of actions taken on behalf of a corporation in the process of dissolving. This case provides a framework for analyzing similar situations where the validity of waivers or other corporate actions is challenged based on arguments about corporate existence or authority of officers. The ruling emphasizes that apparent authority, especially when coupled with the corporate seal, carries significant weight.

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