Plywoods-Plastics Corp. v. Commissioner, 17 T.C. 154 (1951)

To qualify for relief under Section 722 of the Internal Revenue Code, a taxpayer must prove that its excess profits tax, computed without the benefit of Section 722, is excessive and discriminatory and must establish a fair and just amount representing normal earnings to be used as a constructive average base period net income.

Summary

Plywoods-Plastics Corp. sought relief from excess profits tax under Section 722 of the Internal Revenue Code, arguing that its tax was excessive and discriminatory due to either commencing business during the base period or having an abnormally low invested capital. The Tax Court denied relief, finding that the corporation did not commence business during the relevant base period and that its invested capital was not abnormally low compared to similar companies. The court emphasized that the taxpayer bears the burden of proving these conditions and establishing a fair constructive average base period net income.

Facts

Plywoods-Plastics Corp. was incorporated in 1939, but its first meeting of subscribers and election of directors did not occur until March 1940. The company began producing plywood in July 1940. The corporation's capital stock was fixed at $750,000. Washington Veneer Company held a majority of Plywoods-Plastics Corp. stock and handled its administration, assumed credit risks, and advanced operational funds. Booth-Kelly, another stockholder, managed most of the company's log inventory. Plywoods-Plastics Corp. claimed its invested capital was abnormally low because it lacked sufficient capital to pay for its plant and working capital.

Procedural History

Plywoods-Plastics Corp. applied for relief from excess profits tax under Section 722 of the Internal Revenue Code. The Commissioner of Internal Revenue denied the application. Plywoods-Plastics Corp. then petitioned the Tax Court for a redetermination of its tax liability.

Issue(s)

1. Whether Plywoods-Plastics Corp. commenced business during the base period, thus qualifying it for relief under Section 722(b)(4) of the Internal Revenue Code.
2. Whether Plywoods-Plastics Corp.'s invested capital was abnormally low, thus qualifying it for relief under Section 722(c)(3) of the Internal Revenue Code.

Holding

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1. No, because Plywoods-Plastics Corp. did not undertake actual business operations until after the base period.
2. No, because Plywoods-Plastics Corp. failed to demonstrate that its invested capital was abnormally low compared to similar plywood companies and considering the support it received from its parent company.

Court’s Reasoning

The court reasoned that commencing business requires more than mere incorporation; it necessitates actual business operations. Since Plywoods-Plastics Corp. did not begin producing plywood until July 1940, it did not commence business during the base period as required by Section 722(b)(4). Regarding the abnormally low invested capital claim, the court stated that the term

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