Rand Beverage Company, Inc. v. Commissioner of Internal Revenue, 18 T.C. 275 (1952)

A company that began business during the base period for excess profits tax calculation may be entitled to relief under Section 722(b)(4) if its average base period net income doesn't reflect normal earnings due to its developmental stage.

Summary

Rand Beverage Co., started producing carbonated beverages in 1937 and sought relief from excess profits taxes for 1943-1945, arguing its excess profits credits were unfairly low. The Tax Court addressed whether Rand qualified for relief under Section 722(b)(4) or (b)(5), and whether it could use the "2-year push-back rule". The court held Rand qualified for relief under 722(b)(4) because its earnings hadn't reached a normal level by the end of the base period, entitling it to a reconstructed average base period net income. Relief under 722(b)(5) was denied. The court determined a fair and just amount representing normal earnings of the petitioner to be used as a constructive average base period net income.

Facts

Rand Beverage Co. incorporated in February 1937 and started operations in April 1937. It manufactured and sold soft drinks, including Cleo-Cola, New Yorker, and Town Hall. In 1938, Cleo-Cola was replaced with Nichol-Kola, and Rand's Better Beverages were introduced. The company intended to build its sales of Rand's Better Beverages, on which it intended to make its profit, hoping they would be the leading drink, and it was planned to discontinue Town Hall. The business experienced losses and subnormal earnings during its initial years. Competition in the Little Rock soft drink industry was keen. Rand computed its excess profits credits based on invested capital.

Procedural History

Rand Beverage Co. filed excess profits tax returns for 1943, 1944, and 1945. It also applied for relief under Section 722 of the Internal Revenue Code. The Commissioner of Internal Revenue disallowed these applications. Rand then petitioned the Tax Court, contesting the disallowance. The Tax Court reviewed the case and issued its opinion.

Issue(s)

1. Whether Rand Beverage Company qualifies for relief from excess profits tax under Section 722(b)(4) of the Internal Revenue Code.

2. Whether Rand is entitled to use the

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