Campana Corp. v. Commissioner, 19 T.C. 82 (1952)

A deduction is not considered abnormal for excess profits tax credit purposes merely because a taxpayer protests the underlying tax assessment, especially when the taxpayer had a right to pass the tax on to a distributor but instead chose to litigate the assessment.

Summary

Campana Corp. sought to increase its excess profits tax credit for 1943 and 1944 by arguing that deductions taken in 1937 and 1938 for manufacturer's excise taxes were abnormal. Campana paid additional excise taxes after an assessment based on its distributor's selling price, protested the tax, but deducted the payments. The Tax Court held that these deductions were not abnormal under Section 711(b)(1)(H) or (J)(i) of the Internal Revenue Code. The court reasoned that the taxes were of a type normally expected in the business and that the taxpayer's choice to deduct the taxes, rather than pass them on or accrue them as income, didn't make the deduction abnormal.

Facts

Campana manufactured and sold cosmetics, subject to excise tax. Initially, it handled distribution itself, paying excise tax on its selling price to the trade. In 1933, Campana contracted with a distributor, selling its entire output to them. The Commissioner later assessed additional excise taxes on Campana based on the distributor's selling price to the trade. Campana paid these additional taxes under protest and deducted them on its returns. Campana later sued to recover the additional taxes but dismissed the suit after an adverse Supreme Court decision. In 1945, the distributor reimbursed Campana for these taxes.

Procedural History

The Commissioner determined that the excise tax deductions taken in 1937 and 1938 were not abnormal, thus not allowable for increasing the excess profits tax credit for 1943 and 1944. Campana petitioned the Tax Court for review of this determination. The Tax Court upheld the Commissioner's decision.

Issue(s)

1. Whether deductions for additional excise taxes paid under protest in 1937 and 1938 constituted "abnormal deductions" within the meaning of Section 711(b)(1)(H) or (b)(1)(J)(i) of the Internal Revenue Code, for the purpose of computing Campana's excess profits tax credit for 1943 and 1944.
2. Whether the additional excise taxes that Campana could have passed on to its distributing agent were properly accruable as income in the fiscal years 1937 and 1938, thus increasing base period net income for excess profits tax purposes.

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Holding

1. No, because the protested excise taxes were not abnormal, or abnormal in class, for Campana.
2. No, because Campana's actions indicated it did not consider the additional taxes as accrued income in 1937 and 1938.

Court's Reasoning

The court reasoned that the additional excise taxes were not abnormal as they were of the same type levied since 1933. The court stated, "Since the Federal Government from time to time imposes various kinds of taxes on manufactured products, we can not reasonably say that the assessment of a manufacturer's excise tax was abnormal or extraordinary or something which petitioner could not reasonably expect in the normal operation of its business." Furthermore, the fact that Campana protested the tax and took deductions, rather than offsetting them against income, did not make the deductions abnormal. Regarding the accrual of income, the court noted that Campana's own bookkeeping didn't reflect the taxes as accrued income. The court emphasized that Campana's suits for refund were inconsistent with the idea that the taxes were accrued income. The court stated, "The additional taxes were either accrued income, or refundable from the Commissioner. The alternate theories are incongruous; the additional taxes must be income or not, for both theories can not coexist."

Practical Implications

This case illustrates that merely protesting a tax assessment does not automatically render the resulting deduction "abnormal" for excess profits tax purposes. Taxpayers seeking to claim abnormal deductions must demonstrate that the type or amount of the deduction significantly deviates from their historical experience. The case also underscores the importance of consistent tax treatment; a taxpayer cannot argue that an item should have been accrued as income when their actions, such as suing for a refund, suggest otherwise. This case clarifies that a taxpayer's conduct and accounting practices weigh heavily in determining the proper tax treatment of contested items.

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