Robinson Terminal Warehouse Corp. v. Commissioner, 20 T.C. 1107 (1953)

To demonstrate a 'commitment' for excess profits tax relief under Section 722(b)(4) of the Internal Revenue Code, a taxpayer must show a definite plan, coupled with actions taken in furtherance of that plan, to change the character of its business before January 1, 1940.

Summary

Robinson Terminal Warehouse Corp. sought relief from excess profits taxes for fiscal years 1944-1946, arguing it qualified under Section 722(a) and (b)(4) of the Internal Revenue Code due to a change in business character. The company claimed a commitment before 1940 to build a warehouse for the Times-Herald newspaper, an increase in operational capacity during the base period, and commencement of business in the base period. The Tax Court denied relief, finding no definitive pre-1940 commitment to the Times-Herald project and no demonstrated increase in earnings capacity beyond existing contracts with other newspapers. However, the court did acknowledge that the business started in the base period and was entitled to a reconstruction of its average base period net income.

Facts

In June 1937, Robinson was asked by the Herald to find storage for its newsprint, but the proposal was rejected. In July 1939, the petitioner contracted with the Post to build a warehouse by November 1, 1939. Shortly before the Post contract, Robinson bought land which was transferred to the petitioner when it was formed in June 1939, and the warehouse for the Post was built. In November 1939, the petitioner made an oral agreement with the News to receive, store, and deliver newsprint. In September 1940, the petitioner contracted with Montmorency Paper Company, Ltd. to store and deliver newsprint to the Times-Herald.

Procedural History

Robinson Terminal Warehouse Corp. petitioned the Tax Court for relief under Section 722 of the Internal Revenue Code regarding excess profits taxes for the fiscal years ending June 30, 1944, 1945, and 1946. The Tax Court reviewed the evidence and arguments presented by the petitioner.

Issue(s)

1. Whether the petitioner demonstrated a commitment before January 1, 1940, to construct a warehouse for the Times-Herald, thus justifying relief under Section 722(b)(4) due to a change in business character.
2. Whether the petitioner showed an increase in its capacity for production and operation during the base period, entitling it to relief under Section 722(b)(4).
3. Whether the petitioner, having commenced business in the base period, is entitled to reconstruct its average base period net income for excess profits tax

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purposes.

Holding

1. No, because the negotiations with the Herald did not establish a definite plan or action demonstrating a commitment to construct the warehouse before January 1, 1940.
2. No, because the petitioner failed to prove that the additional warehouse space acquired during the base period resulted in an ability to produce a higher level of earnings beyond existing contracts.
3. Yes, because the petitioner began business in the base period and is therefore entitled to use a reconstruction of its average base period net income.

Court's Reasoning

The court reasoned that the petitioner failed to demonstrate a pre-1940 'commitment' to the Times-Herald warehouse. The court stated, "something more than hope, desire, and expectation is needed to demonstrate a commitment under section 722 (b) (4). A definite plan, together with action taken on the strength of such plan, must be shown." The court found that the placement of the first warehouse and the length of the wharf did not unequivocally establish an intent to build the Herald warehouse within a reasonably definite time. Additionally, the petitioner's president's hesitation to contract during the Times-Herald's transition period contradicted the idea of a firm commitment. The court determined that the additional warehouse space acquired did not automatically translate to increased earnings capacity, as the petitioner did not prove an ability to attract additional customers or revenue streams. The court did acknowledge that the petitioner started its business in the base period and allowed for a reconstruction of its average base period net income. However, the court limited the reconstruction to the business of the Post and News, excluding the Times-Herald, and applied the

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