25 T.C. 550 (1955)

To obtain relief from excess profits tax, a taxpayer must demonstrate that its average base period net income is an inadequate standard of normal earnings due to specific qualifying events, such as changes in the nature of its business or industry-wide economic depression.

Summary

Huttig Sash & Door Co. sought relief from excess profits taxes, claiming its average base period net income was not representative of its normal earnings due to changes in the character of its business and industry conditions. The U.S. Tax Court examined whether Huttig's expansion into new product lines (Insulite, Andersen windows, Venetian blinds), the acquisition of a competitor, and the construction of a new facility qualified for relief under Section 722 of the Internal Revenue Code. The court found that while some changes, such as the Venetian blind operation and the acquisition of a competitor, were qualifying events, Huttig failed to provide sufficient evidence to demonstrate that these changes, or other factors, resulted in an inadequate standard of normal earnings, leading to a denial of significant relief. The court used its own analysis of the facts to determine the appropriate "constructive average base period net income."

Facts

Huttig Sash & Door Co. (Petitioner), a millwork business, sought excess profits tax relief for 1940-1942. During the base period (1936-1939) and immediately prior, Huttig expanded by:

1. Selling Insulite products under a 1935 contract.
2. Distributing Andersen window assemblies.
3. Manufacturing and selling Venetian blinds (began in 1935).
4. Acquiring the business of W.J. Hughes & Sons Company, a competitor (1936).
5. Building a new plant in Knoxville, Tennessee, for the acquired Hughes business (1937).

The Petitioner claimed these changes, along with general economic conditions, made its average base period income an inadequate measure of normal earnings.

Procedural History

The Commissioner disallowed Huttig's claims for relief and determined deficiencies in excess profits tax. Huttig petitioned the U.S. Tax Court. The Tax Court reviewed the facts, evidence, and relevant law to determine if Huttig was entitled to relief.

Issue(s)

1. Whether the commencement of selling Insulite products constituted a change

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in the character of the business under I.R.C. §722(b)(4).
2. Whether the distribution of Andersen windows constituted a change under I.R.C. §722(b)(4).
3. Whether the manufacture and sale of Venetian blinds constituted a change under I.R.C. §722(b)(4).
4. Whether the acquisition of W.J. Hughes & Sons Company constituted a change under I.R.C. §722(b)(4).
5. Whether the construction of a new plant and facilities in Knoxville for the Hughes business constituted a change under I.R.C. §722(b)(4).
6. Whether the petitioner's business was depressed in the base period by reason of conditions described in I.R.C. §722(b)(3)(A).
7. What constitutes a fair and just amount to represent normal earnings for the petitioner to be used as a constructive average base period net income, for the purpose of I.R.C. §722.

Holding

1. No, because the Petitioner failed to prove its impact.
2. No, because the Petitioner failed to prove its impact.
3. Yes, but income was at a normal level at the end of the period.
4. Yes, and the court had to take into account the impact of the acquisition.
5. Yes, and the court had to take into account the impact of the construction.
6. No, because the Petitioner did not provide supporting evidence.
7. The court determined that an adjustment to petitioner's average base period net income was necessary to reflect the economic impact of the changes in the nature of its business, based on its own analysis.

Court's Reasoning

The court applied the relevant portions of I.R.C. §722, which allowed for relief if the excess profits tax resulted in an excessive and discriminatory tax because the taxpayer's average base period net income did not reflect normal operations. The court examined each alleged change to determine if it qualified under §722(b)(4) (

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