26 T.C. 1096 (1956)

A taxpayer may be granted relief from excess profits tax if they can establish that changes in the character of their business during the base period or immediately prior to it, resulted in an inadequate standard of normal earnings.

Summary

Nutrena Mills, Inc., sought relief from excess profits taxes, claiming that changes in the character of its business during the base period, specifically the establishment of a new plant and company-owned warehouses, resulted in an inadequate average base period net income. The Tax Court agreed, finding that these changes—particularly the opening of a new plant at Coffeyville and warehouses at St. Joseph, Oklahoma City, and Omaha—altered the normal operation of the business. The court determined that Nutrena's average base period net income did not accurately reflect its potential earnings had these changes occurred earlier. The court granted Nutrena a constructive average base period net income higher than its actual income, thus reducing its tax liability.

Facts

Nutrena Mills, Inc., a Kansas corporation, manufactured and sold poultry and livestock feed. During the base period (1936-1939), the company expanded by opening a plant in Coffeyville, Kansas, and establishing warehouses in St. Joseph, Missouri; Oklahoma City, Oklahoma; and Omaha, Nebraska. These expansions aimed to increase sales and market reach. The company kept separate books for each location. The Commissioner of Internal Revenue disallowed Nutrena's applications for relief under Section 722 of the Internal Revenue Code of 1939, prompting the company to seek review.

Procedural History

Nutrena Mills, Inc. filed applications for relief and claims for refund under Section 722 of the Internal Revenue Code of 1939. The Commissioner disallowed these applications. The Tax Court reviewed the case, considered the stipulated facts, and heard testimony to determine whether Nutrena was entitled to relief from excess profits taxes.

Issue(s)

1. Whether the opening of the Coffeyville plant constituted a "change in the character" of Nutrena's business under section 722(b)(4) of the Internal Revenue Code of 1939.

2. Whether the establishment of company-owned warehouses constituted a

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