Greif Bros. Cooperage Corp. v. Commissioner, 26 T.C. 247 (1956)

A taxpayer seeking excess profits tax relief based on a change in the character of its business during the base period must establish a fair and just amount of constructive average base period net income that is higher than the income calculated under standard methods.

Summary

The case involves Greif Bros. Cooperage Corp., which sought excess profits tax relief under Section 722(b)(4) of the Internal Revenue Code, arguing that it had changed the nature of its business during the base period. The Tax Court held that while the taxpayer had indeed changed its business, it failed to provide sufficient evidence to establish a constructive average base period net income exceeding the amount calculated by the Commissioner. The court emphasized that the burden of proof rested on the taxpayer to demonstrate both a change in business character and a fair and just constructive income amount. The court rejected the taxpayer's reconstructed income figures, finding them based on unsupported assumptions and flawed methodologies, ultimately upholding the Commissioner's determination.

Facts

Greif Bros. Cooperage Corp. manufactured used bags during the base period and added the manufacture and sale of new bags. The taxpayer sought excess profits tax relief under Section 722(b)(4) of the Internal Revenue Code, claiming a change in the character of its business and that its average base period net income did not reflect the normal operation of the business for the entire base period. The taxpayer's initial claim was for $158,989.72, later amended to $94,629.94, as a fair and just amount representing normal earnings during the base period. The Commissioner used a growth formula, leading to a lower average base period net income. The taxpayer reconstructed sales figures using a

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