***Wasson v. Commissioner*, 30 T.C. 633 (1958)**

To obtain relief from excess profits taxes under Section 722 of the Internal Revenue Code of 1939, a taxpayer must not only establish eligibility but also demonstrate a constructive average base period net income (CABPNI) that results in a greater excess profits credit than is already available.

Summary

The case concerns Wasson's claim for relief from excess profits taxes under Section 722 of the Internal Revenue Code of 1939. The Tax Court found that while Wasson might have qualified for relief under certain subsections of Section 722, it failed to establish a constructive average base period net income (CABPNI) that would generate a higher excess profits tax credit than already available. The court scrutinized Wasson's method of reconstructing its base period earnings, finding several fundamental errors and an unrealistic profit ratio. The court also noted that a taxpayer cannot simultaneously claim relief under both Section 713 (the general method) and Section 722, and sustained the Commissioner's disallowance of Wasson's claims.

Facts

Wasson sought relief from excess profits taxes under Section 722, alleging that its average base period net income was an inadequate standard of normal earnings. The company experienced a loss of business after a strike in 1937. To reconstruct its base period earnings, Wasson computed the percentage of increase in sales to customers other than Olds and Schwitzer-Cummins for each of the years 1936, 1937, 1938, and 1939. Sales to Olds and Schwitzer-Cummins were then reconstructed for each of the base period years by increasing sales to these two customers proportionately to the increase in sales to other customers. Wasson used a profit ratio of 11.62% to determine constructed profits, and applied the growth formula provided in section 713 (f). The company received credits against excess profits taxes computed under the invested capital method. However, its history indicated significant losses, and the reconstruction of the base period net income was determined to be flawed.

Procedural History

The case was heard by the United States Tax Court. The Commissioner of Internal Revenue disallowed Wasson's claims for relief. The Tax Court reviewed the Commissioner's decision.

Issue(s)

1. Whether Wasson established a constructive average base period net income that would entitle it to relief under Section 722 of the Internal Revenue Code of 1939.

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2. Whether Wasson's method of reconstructing earnings was reasonable and accurately reflected normal earnings.

Holding

1. No, because Wasson failed to establish a CABPNI that yielded a larger excess profits credit.
2. No, because Wasson's reconstruction contained fundamental errors, including an unrealistic profit ratio, and improperly combined the effects of lost business with efforts to replace that business.

Court's Reasoning

The court's decision focused on the flawed methodology used by Wasson to reconstruct its earnings and the absence of a credible CABPNI. The court emphasized that eligibility for relief under Section 722 is not enough. The taxpayer must also demonstrate a fair and just amount representing normal earnings to be used as a constructive base period net income. The court found

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