***Maine Foods, Inc. v. Commissioner*, 28 T.C. 1080 (1957)**

To qualify for excess profits tax relief under Section 722(b)(2), a taxpayer must demonstrate that its business was depressed by a temporary or unusual economic circumstance, and that the identified circumstance was the primary cause of the depression.

Summary

Maine Foods, Inc. sought excess profits tax relief, arguing that its business was depressed due to competition from imported Norwegian sardines and a scarcity of fish. The Tax Court denied relief, finding that the competition from Norwegian sardines was a consistent, not unusual, factor in the Maine sardine industry. Further, the court determined that changes in international monetary exchange rates, which the petitioner claimed affected their business, were not qualifying factors for tax relief. The court emphasized that the cause of the depression must be temporary or unusual to warrant relief under section 722(b)(2) of the Internal Revenue Code.

Facts

Maine Foods, Inc. (Petitioner) produced and sold sardines. The company sought excess profits tax relief for its fiscal year ended March 31, 1940, claiming its business was depressed during the base period (preceding years) due to competition from Norwegian sardines. Specifically, they claimed that the dumping of large quantities of Norwegian sardines on the domestic market, coupled with a scarcity of fish in 1938, depressed their business. Norwegian imports represented a significant portion of the domestic market, and competition, though generally present, was claimed to be particularly severe during the base period. The Petitioner contended that the prices and sales of keyless sardines (the lowest-priced Maine product) were determined by the prices of Norwegian imports.

Procedural History

The case was heard by the Tax Court. The petitioner, Maine Foods, Inc., contested the Commissioner’s determination regarding their excess profits tax liability, specifically seeking relief under Section 722(b)(2). The Tax Court reviewed the evidence and arguments presented by both the petitioner and the Commissioner of Internal Revenue.

Issue(s)

1. Whether the competition from Norwegian sardines constituted a temporary or unusual economic circumstance, entitling Maine Foods, Inc. to excess profits tax relief under Section 722(b)(2)?
2. Whether the scarcity of fish and resulting small pack of sardines in 1938 independently or in conjunction with other factors, provided the basis for

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excess profit tax relief.

Holding

1. No, because the competition from Norwegian sardines was a persistent and ordinary aspect of the Maine sardine industry.
2. No, because there was no basis for reconstructing petitioner's operations for that year.

Court's Reasoning

The court focused on whether the circumstances cited by Maine Foods, Inc. met the requirements for excess profits tax relief under Section 722(b)(2). The court noted that relief is granted if there is a temporary or unusual economic circumstance affecting the business. The court found that the competition from Norwegian sardines was a consistent factor in the Maine sardine industry and not an unusual or temporary circumstance. The court also found that the company's arguments about the exchange rate were unpersuasive as a factor in relief, citing previous rulings that governmental action is not a basis for relief. The court also noted that the company's operations in 1939 were considered in the excess profits credit calculations and found that this credit adequately compensated for the effects of the short pack.

The Court referred to prior cases, such as *Fish Net Twine Co., Lamar Creamery Co., and Winter Paper Stock Co.*, to support the conclusion that the competition was not an unusual circumstance justifying tax relief. The court also noted the lack of evidence supporting the claim that the price of Norwegian imports always determined the price and production of Maine sardines. The Court stated, "Any competition that the Maine packers encountered during the base period from the Norwegian imports was not a temporary or unusual circumstance."

Additionally, the court highlighted the presence of significant inventory carryovers by the petitioner in 1937 and 1938, which demonstrated that the company's difficulties were not solely due to external factors.

Practical Implications

This case underscores that for taxpayers to secure excess profits tax relief based on economic circumstances, the claimed circumstances must be temporary or unusual. Constant market forces, like import competition, are unlikely to qualify. Attorneys should meticulously examine the economic context to determine if it departs significantly from the norm. This ruling also reinforces the requirement for a direct causal link between the alleged unusual event and the claimed business depression. Practitioners must gather substantial evidence demonstrating the temporary nature and primary impact of any asserted economic events. Further, the case illustrates the importance of considering the impact of government policies and the availability

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of alternative relief mechanisms (e.g., Section 713(f) credits) when analyzing excess profits tax claims.

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