Hub City Foods, Inc. v. Commissioner, 90 T. C. 297 (1988)

A company is not engaged in the trade or business of furnishing transportation if it only transports its own goods, and storage facilities used for goods before transport do not qualify for investment tax credits as part of transportation.

Summary

Hub City Foods, Inc. , a wholesale grocery distributor, constructed a freezer facility and claimed an investment tax credit under section 38 of the Internal Revenue Code. The Tax Court held that Hub City was not entitled to the credit because its primary business was selling grocery items, not providing transportation services, and the freezer facility was used for storage, not as an integral part of transportation. The court clarified that a transportation business involves providing services to third parties for hire, not merely transporting one's own goods, and storage facilities do not qualify as part of transportation activities under section 48.

Facts

Hub City Foods, Inc. , a Wisconsin corporation, operated as a wholesale distributor of grocery items, purchasing products from vendors and selling them to retail outlets. In 1979, Hub City constructed a freezer facility at its Marshfield distribution center to store frozen food products. The company claimed an investment tax credit for the freezer facility under section 38 of the Internal Revenue Code. Hub City primarily used its fleet of trucks to deliver its own grocery items to retailers, bearing the risk of loss until delivery. Additionally, Hub City transported an average of one to two loads of third-party goods daily, generating $68,429 in revenue from these services in 1979.

Procedural History

The Commissioner of Internal Revenue issued a notice of deficiency for the tax years 1976 and 1977, disallowing the investment credit claimed by Hub City. Hub City petitioned the Tax Court for a redetermination of the deficiency. The case was reassigned to the Chief Judge by order, and the parties submitted the case fully stipulated.

Issue(s)

1. Whether Hub City Foods, Inc. is engaged in the trade or business of furnishing transportation within the meaning of section 48(a)(1)(B)(i) of the Internal Revenue Code?
2. Whether the freezer facility constructed by Hub City Foods, Inc. qualifies as 'other tangible property. . . used as an integral part of. . . furnishing transportation' under section 48(a)(1)(B)(i)?

Holding

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1. No, because Hub City's primary business was selling grocery items, not providing transportation services to third parties for hire.
2. No, because the freezer facility was used for storage, not as an integral part of furnishing transportation.

Court's Reasoning

The Tax Court applied section 48(a)(1)(B)(i) of the Internal Revenue Code, which defines 'section 38 property' to include tangible property used as an integral part of furnishing transportation. The court relied on the regulations under section 1. 48-1(d)(1) and (4), which state that property must be used directly and be essential to the completeness of the transportation activity by one engaged in the trade or business of furnishing transportation. The court cited examples from the regulations, such as railroads and trucking companies, noting that these businesses provide transportation services to third parties for hire. Hub City's transportation of its own goods was deemed incidental to its primary business of selling groceries, not a separate transportation business. The court also referenced the case of Commissioner v. Schuyler Grain Co. , where storage facilities were not considered part of furnishing transportation. The court concluded that the freezer facility was used for storage, not transportation, and thus did not qualify for the investment credit.

Practical Implications

This decision clarifies that for a business to qualify for investment tax credits under section 38 as part of a transportation business, it must provide transportation services to third parties for hire, not merely transport its own goods. Storage facilities used before transportation do not qualify as integral to the transportation activity. Legal practitioners should advise clients that incidental transportation activities related to their primary business do not create a separate transportation business for tax purposes. Businesses should be cautious when claiming investment credits for facilities used in storage or preparation for transportation, as these may not meet the statutory requirements. This ruling may impact how companies structure their operations and claim tax credits, particularly in industries where transportation is a significant component of their business model.

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