Rollercade, Inc. v. Commissioner, 97 T. C. 113 (1991)

A tax matters person's failure to prosecute a case properly can lead to dismissal and the imposition of penalties under I. R. C. § 6673.

Summary

Rollercade, Inc. , an S corporation, challenged the IRS's disallowance of a $7,140 deduction for contracted services. Victor E. Folks, the tax matters person, failed to substantiate the deduction, ignored IRS requests for conferences, did not file a trial memorandum, and did not appear at trial. The U. S. Tax Court dismissed the case for lack of prosecution and imposed a $1,000 penalty on Folks personally under I. R. C. § 6673, due to his willful failure to pursue the case and administrative remedies. This decision highlights the responsibilities of a tax matters person in S corporation tax disputes and the consequences of failing to meet those responsibilities.

Facts

Rollercade, Inc. , an S corporation operating a roller-skating rink, received a notice of final S corporation administrative adjustment (FSAA) from the IRS disallowing a $7,140 deduction for contracted services for the tax year ending September 30, 1986. Victor E. Folks, Rollercade's tax matters person, filed a petition with the U. S. Tax Court, asserting that the deduction was for services performed on a task-by-task basis. Despite numerous requests from the IRS, Folks did not provide substantiation for the deduction. He also failed to respond to IRS attempts to schedule conferences, did not file a trial memorandum, and did not appear for trial.

Procedural History

The IRS issued the FSAA on January 30, 1990, and Folks filed a timely petition on May 3, 1990. The Tax Court scheduled the case for trial in Detroit, Michigan, beginning May 13, 1991. The IRS moved to dismiss for lack of prosecution and to impose sanctions under I. R. C. § 6673 due to Folks' failure to comply with court rules and orders. The Tax Court granted both motions.

Issue(s)

1. Whether the case should be dismissed for lack of prosecution due to the tax matters person's failure to comply with court rules and orders.
2. Whether a penalty should be imposed under I. R. C. § 6673 for the tax matters person's conduct in this case.

Holding

1. Yes, because the tax matters person willfully failed to prosecute the case by not providing substantiation, ignoring IRS requests, failing to file a trial memorandum, and not appearing at trial.

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2. Yes, because the tax matters person instituted the proceeding primarily for delay and unreasonably failed to pursue available administrative remedies, justifying a $1,000 penalty under I. R. C. § 6673.

Court’s Reasoning

The Tax Court applied Rule 123(b) of the Tax Court Rules of Practice and Procedure, which allows dismissal for failure to prosecute or comply with court rules or orders. The court found Folks’ failure to comply was willful, as evidenced by his complete lack of interest in presenting his case and his repeated disregard of IRS and court directives. The court also applied I. R. C. § 6673, which authorizes penalties for proceedings instituted primarily for delay or for failure to pursue administrative remedies. The court concluded that Folks’ actions met these criteria. Notably, the court imposed the penalty on Folks personally, as the tax matters person, rather than on the S corporation or its shareholders, emphasizing the personal responsibility of the tax matters person in such proceedings. The court cited cases like *Voss v. Commissioner* and *Swingler v. Commissioner* to support its findings.

Practical Implications

This decision underscores the critical role of the tax matters person in S corporation tax disputes and the severe consequences of failing to diligently prosecute a case. Tax practitioners must ensure that tax matters persons understand their obligations to substantiate claims, engage in the administrative process, and comply with court procedures. The ruling also clarifies that penalties under I. R. C. § 6673 can be imposed on the tax matters person personally in S corporation cases, serving as a deterrent against frivolous or dilatory conduct. This case may influence how tax matters persons approach their responsibilities and how courts handle similar situations in the future, potentially leading to more stringent enforcement of procedural rules in tax litigation involving S corporations.

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