PCMG Trading Partners XX, L. P. v. Commissioner, 136 T. C. 65 (2011)

In a significant ruling on partnership tax proceedings, the U. S. Tax Court in PCMG Trading Partners XX, L. P. v. Commissioner clarified the jurisdiction over petitions filed by indirect partners. The court upheld its jurisdiction over a petition filed by a group of indirect partners, known as a 5-percent group, but dismissed subsequent individual petitions by the same partners. This decision reinforces the unified litigation procedures under TEFRA, ensuring that partnership issues are resolved in a single proceeding, thereby streamlining tax litigation and promoting consistency among partners.

Parties

Plaintiffs: David Boyer, Donald DeFosset, Jr. , Richard M. Kelleher, Michael Rowny, and John A. McMullen, members of PCMG Trading Fund XX, LLC, and indirect partners of PCMG Trading Partners XX, L. P. , filed a petition as a 5-percent group (docket No. 5078-08). They also filed individual petitions (docket Nos. 5149-08, 5150-08, 5151-08, 5152-08, and 5153-08). PCMG Trading Fund XX, LLC, a notice partner, filed a petition (docket No. 5154-08). Defendant: Commissioner of Internal Revenue.

Facts

On October 3, 2007, the Commissioner issued a final partnership administrative adjustment (FPAA) to Private Capital Management Group, L. L. C. , the tax matters partner (TMP) for PCMG Trading Partners XX, L. P. , covering the taxable years 1999 and 2000. Copies of the FPAA were also sent to PCMG Trading Fund XX, LLC, a notice partner and pass-thru partner, and its members, who were indirect partners of the partnership. The TMP did not file a petition within the 90-day period prescribed by section 6226(a). On February 28, 2008, the indirect partners filed a petition as a 5-percent group, asserting that their aggregate profits interests exceeded 5 percent. The following day, the same indirect partners filed individual petitions, and the notice partner filed its petition, all asserting that the statute of limitations for assessing any tax attributable to partnership items had expired.

Procedural History

The U. S. Tax Court consolidated seven cases for consideration of the Commissioner’s motions to dismiss six of them for lack of jurisdiction under section 6226(b)(2) and (4). The petition filed by the 5-percent group was timely and within the 60-day period following the TMP’s inaction. The subsequent petitions filed by the individual indirect partners and the notice partner were also within the statutory period but were challenged as duplicative. The court applied a de novo standard of review to determine its jurisdiction over the petitions.

Issue(s)

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Whether the U. S. Tax Court has jurisdiction over a petition filed by a 5-percent group composed of indirect partners under section 6226(b)(1)? Whether the court should dismiss subsequent petitions filed by the same indirect partners and the notice partner under section 6226(b)(4)?

Rule(s) of Law

Section 6226(b)(1) allows a notice partner or a 5-percent group to file a petition for readjustment of partnership items if the TMP does not file within the 90-day period. Section 6226(b)(2) and (4) mandate that the first petition filed in the Tax Court shall go forward, and any subsequent petitions regarding the same FPAA must be dismissed. Section 6226(d)(1) permits a partner to participate in an action or file a petition solely to assert that the statute of limitations has expired with respect to that partner.

Holding

The U. S. Tax Court has jurisdiction over the petition filed by the 5-percent group composed of indirect partners. The subsequent petitions filed by the same indirect partners and the notice partner must be dismissed for lack of jurisdiction under section 6226(b)(4).

Reasoning

The court reasoned that indirect partners, as defined under section 6231(a)(10), are considered partners under section 6231(a)(2)(B) and can form a 5-percent group eligible to file a petition under section 6226(b)(1). The court relied on Third Dividend/Dardanos Associates v. Commissioner, which established that indirect partners can form a 5-percent group, despite the differences in the factual context. The court rejected the argument that the indirect partners could file separate petitions under section 6226(d)(1) for asserting the statute of limitations, interpreting the statute to present a choice between participating in an existing case or filing a new petition. The court's interpretation aligned with the purpose of the unified litigation procedures under TEFRA, which aims to resolve partnership issues in one proceeding. The court also noted that allowing multiple petitions would contradict the statutory objective of streamlining tax litigation.

Disposition

The court affirmed its jurisdiction over the petition filed by the 5-percent group (docket No. 5078-08) and dismissed the six subsequent petitions (docket Nos. 5149-08, 5150-08, 5151-08, 5152-08, 5153-08, and 5154-08) for lack of jurisdiction.

Significance/Impact

This case is doctrinally significant for its clarification of the Tax Court's jurisdiction over petitions filed by indirect partners in partnership tax proceedings. It reinforces

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the unified audit and litigation procedures under TEFRA, ensuring that partnership issues are resolved efficiently and consistently. Subsequent courts have followed this decision, affirming the dismissal of duplicative petitions and upholding the priority of the first-filed petition. The practical implication for legal practice is that attorneys must carefully strategize the filing of petitions to ensure compliance with jurisdictional requirements and to avoid dismissal of subsequent filings.

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