

## Tax Administrative Jurisdiction Case Study Tax Court Number 86615/PP/M.XIVA/15/2017

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### Article Info

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#### Article history:

Received January, 2023

Revised January, 2023

Accepted January, 2023

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#### Keywords:

Director General of Taxes  
Constitution  
financial statements

### ABSTRACT

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Taxes are mandatory contributions to the state owed by individuals or entities that are coercive based on the law, by not getting compensation directly and used for the needs of the state for the greatest prosperity of the people. Tax payment is a form of embodiment of state obligations and the participation of taxpayers to directly and jointly carry out tax obligations for state financing and national development. This study uses a normative juridical approach, where law is conceptualized as what is written in laws and regulations (law in books) or law is conceptualized as rules or norms which are benchmarks for human behavior that are considered appropriate. This research is a form of descriptive qualitative research. Qualitative research is research that intends to understand phenomena about what is experienced by research subjects such as behavior, perceptions, motivations, actions, etc., holistically, and by describing in the form of words and language, in a specific context that naturally and by utilizing various natural methods. In this case the discussion regarding the tax report between the appellant, namely the taxpayer, and the appealed person, namely the Director General of Taxes or a tax agency and the auditor as a tax office officer. The problem started with the appellant providing data on the amount of tax to be paid by the applicant of 41,117,337,279.00. The data came from the financial reports provided to the IDPL auditor report.

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## 1. INTRODUCTION

Taxes are mandatory contributions to the state owed by individuals or entities that are coercive based on the law, by not getting compensation directly and used for the needs of the state for the greatest prosperity of the people. Tax payment is a form of embodiment of state obligations and the participation of taxpayers to directly and jointly carry out tax obligations for state financing and national development. In accordance with the philosophy of the tax law, paying taxes is not only an obligation, but is the right of every citizen to participate in the form of participation in state financing and national development.

The tax administration system is implemented in order to provide a form of convenience for taxpayers in fulfilling tax obligations, as well as increasing the ability of tax officers to supervise regulations and implementation that apply according to tax laws, so that it is expected that taxpayers will be more professional and qualified as well as having support in the process of facilitating taxation activities carried out.

Even though taxes are obligatory and coercive, in reality some taxes do not run as smoothly as they should. Many disputes related to taxes occur in this country, for example, are tax evasion, tax arrears, inflated prices of goods that do not match what is stated in the pamphlet because tax details are not included, which ultimately makes consumers confused, and there are still many other problems related to taxes. The number of deviations that have occurred so far regarding taxation issues makes the tax administration process must be examined whether it is carried out in accordance with applicable regulations,

Every field of work has certainly experienced a dispute, including in the field of taxation. Resolving a problem can be done in many ways including settlement by way of kinship, compensation, negotiation, deliberation to settling disputes that end in court. The reason is not everyone knows that the disputes they face are special disputes

which of course must be resolved in a special court as well.

## 2. LITERATURE REVIEW

The tax court is a judicial body whose job is to exercise judicial power in Indonesia for people who wish to resolve tax disputes. Structurally, the tax court is in the same scope as the State Administrative Court (PTUN). Thus, all court instruments starting from guidance, budget, assets, and supervision are managed by the Supreme Court (MA). There are two opposing sides in the tax administration court. On the one hand, the technical development of the tax court is carried out by the Supreme Court which makes it one of the judicial institutions in Indonesia, while on the other hand, such as organizational, financial and administrative development is carried out by the Ministry of Finance (Ministry of Finance).

These two sides make the tax court a special court. The organizational structure consists of member judges, a secretary who doubles as a clerk, and a leader. There are also two types of lawsuits that can be filed in the tax court. First, the state can make demands in the form of tax collection on taxpayers who do not fulfill their obligations. The tax collection trial process can only be carried out after efforts to reprimand and warn.

Administrative justice or "administratieve rechtspraak" or "judicial control of administrative action" is a term which in the past has caused a lot of controversy among scholars. The Administrative Court that emerged during the French revolution has since experienced a rapid development. Administrative courts are seen as special courts, in the sense that courts are only given the authority to resolve disputes that arise in the field of administration and staffing or disputes that occur between administrative officials and a person or civil law entity as a result of issuing or not issuing a decision.

The tax administration court can also be said to be one of the legal remedies that a taxpayer can take in seeking justice in order to

justify a tax assessment letter issued by the Directorate General of Taxes through a correction mechanism. Administrative court is a step that must be developed in order to create an easy and fast settlement of tax disputes. Some of the advantages of the tax administration court include being easier to reach because it can be done in each, then the tax administration court is more efficient and not time consuming. In the tax administration court there is no procedural law which requires the settlement of disputes to follow the procedural law, so that the taxpayer's time is not wasted.

Tax administration functions to implement the provisions of the tax collection system and also implement tax collection whether it is in accordance with applicable regulations. Administration is not only related to tax collection, but is also an interest in the rights of taxpayers so that all tax implementation can run properly and correctly, Gunadi (2005).

The goal of the tax administration itself is to be able to realize the potential of existing taxpayers, which will have an impact on the maximum amount of state tax revenue, besides that it must become an effective tax administration. The self-assessment system adopted by Indonesia, formal provisions in tax administration can provide support to create taxpayer compliance, but taxpayer compliance includes efforts to fulfill tax administration obligations by calculating taxes correctly, in accordance with tax provisions, compliance in paying and report on time in accordance with the payment deadlines and tax reporting that has been set.

The increase in tax revenue has not been matched by an increase in tax compliance in Indonesia. Facts in Indonesia show that the level of tax compliance is still low, therefore one of the efforts made by the government to increase state revenue from the tax sector is to carry out a tax reform, in which case reforms to the tax laws and regulations and the tax administration system so that potential Available tax revenues can be collected optimally by upholding social

justice and providing excellent service to taxpayers.

Therefore, the increase in tax revenue has not been matched by an increase in tax compliance in Indonesia. Facts in Indonesia show that the level of tax compliance is still low. In essence, taxpayer compliance is influenced by the conditions of the tax administration system. Improving tax administration itself is expected to encourage taxpayer compliance. Based on the description above, it can be said that the level of taxpayer compliance is influenced by how the tax administration is carried out. Thus the authors examine the tax court case study Number 86615/PP/M.XIVA/15/2017.

### 3. METHODS

#### 3.1 *Form of Research*

This study uses a normative juridical approach, where law is conceptualized as what is written in laws and regulations (law in books) or law is conceptualized as rules or norms which are benchmarks for human behavior that are considered appropriate. This normative legal research is based on primary and secondary legal materials, namely research that refers to the norms contained in statutory regulations. Which focuses on secondary data Where the secondary data sources used in this study consist of scientific articles by experts and the results of other scientific research.

#### 3.2 *Paper Data Sources*

Source of data in research is through literature review. Sources of data used in this study are:

- a. Journal: writing made by people who are competent in their fields, and published by an agency or institution.
- b. Internet :a large interconnected network of computer networks that connects people and computers around the world, via telephone, satellite and other communication systems.
- c. Paper: an official piece of writing on a subject intended to be read in public at a meeting and which is often drafted for publication.

#### 3.3 *Types of Research*

This research is a form of descriptive qualitative research. Qualitative research is research that intends to understand phenomena about what is experienced by research subjects such as behavior, perceptions, motivations, actions, etc., holistically, and by describing in the form of words and language, in a specific context that naturally and by utilizing various natural methods. One characteristic of qualitative research is that the data collected is in the form of words, pictures, and not numbers. Thus, the research report will contain data excerpts to illustrate the presentation of the report.

#### 4. RESULTS AND DISCUSSION

##### 4.1 Case Study of the Tax Court Number 86615/PP/M.XIVA/15/2017

Decision Number : Put  
86615/PP/M.XIVA/15/2017  
Type of Tax : PPh. Bd  
Tax Year : 2009

Main Dispute: that the subject matter of the dispute in this appeal dispute is the Correction of Net Income of IDR 38,457,981,517.00, which was not approved by the Appellant with the following details:

##### a. Positive Correction of Business Circulation of IDR 2,931,555,896.00

According to the Appellant: that the data from the Audit Report cannot be used as a basis for making corrections to the Sales of Taxpayers, because the Opinion/Opinion of the Auditor is a disclaimer or does not provide an opinion. In other words, the Auditor cannot believe that the Financial Statements which form the basis of the Audit Report, which are also used by the Auditor to make corrections, can be accounted for.

According to the Appellant: that the Appellant in his closing statement contained in letter Number: 08/CS/PGC-AII/2017-AT/05/2017 dated 23 May 2017 states that the Appellant can accept positive corrections to the Appellant's circulation business of IDR

2,931,555,896.00 and submit it to the Assembly to give the fairest decision;

According to the Panel: that based on the data and information contained in the appeal file, it is known that the Appellant made positive corrections to the business circulation of Rp. 2,931,555,896.00; that the Appellant in the trial stated that he received a positive correction to the Appellant's business turnover of Rp. 2,931,555,896.00;

Whereas based on this statement, the Panel is of the opinion that the Appellant's correction has complied with the applicable laws and regulations, so that the Assembly concludes that the Appellant's positive correction of business circulation of Rp 2,931,555,896.00 is still being maintained;

##### b. Positive Correction of Other Business Expenses amounting to Rp.4,822,512,342.00

According to the Appellant that the Examiner made corrections to Other Business Expenses of Rp.4,822,512,342.00 where for the correction the Appellant cannot provide supporting evidence for other business expenses, however the Examiner admits that there are costs which is the object and withholding tax and also the fees charged. VAT as Appellant's Input Tax. The figures for costs that are the object of withholding tax come from IDLP Financial Report data

According to the Appellant, the Appellant in his closing statement contained in letter Number: 08/CS/PGC-AII/2017-AT/05/2017 dated 23 May 2017 states that the Appellant can accept positive corrections to the Appellant's business expenses others in the amount of Rp. 4,822,512,342.00 and submit it to the Assembly to give the fairest possible decision;

According to the Panel, based on the data and information contained in the appeal file, it is known that the Appellant made positive corrections to other

business expenses of Rp. 4,822,512,342.00; that the Appellant in the trial stated that he received positive corrections for the Appellant's other business expenses in the amount of Rp. 4,822,512,342.00;

Whereas based on this statement, the Panel is of the opinion that the Appellant's correction has complied with the applicable laws and regulations, so that the Assembly concludes that the Appellant's positive correction of other business expenses of Rp 4,822,512,342.00 is still being maintained;

**c. Positive Correction of Income from Outside Business of Rp. 41,117,337,279.00**

According to the Appellant that the Examiner made corrections to Income from Outside Business of Rp.41,117,337,279.00 where the correction came from IDLP Repot Audit data, where the Appellant was unable to explain and provide related documents, so that the Examiner considered this matter as other income;

According to the Appellant, the results of the examination (SKPKB PPH Agency 2009) stated that the Appellant experienced a profit of Rp. 41,062,370,109. This happened because the Appellant only used data from the Audited Financial Statements which would only benefit him, whereas if the data from the Audited Financial Statements would harm him, the Appellant did not take this data into account.

According to the Assembly that based on Article 12 paragraph (3) of the General Provisions Law and

Tax Procedures (UU KUP) stipulates that "If the Director General of Taxes obtains evidence that the amount of tax payable according to the Tax Return as referred to in paragraph 2 is incorrect, the Director General of Taxes determines the amount of tax payable"; that according to the explanatory

memory of Article 29 paragraph (2) of the KUP Law it is stipulated that "Opinions and conclusions of examiners must be based on strong evidence and based on the provisions of the tax laws and regulations"

Whereas based on the facts of the trial it is known that the positive correction of the Appellant to Income from Outside Business of Rp.41,117,337,279.00 came from an increase in Assets, Decrease in Liabilities and Other Non-Business Income which is listed in the Financial Statements as follows:

Increase in Joint Operation Assets Rp 23,892,287,187.00  
Decrease in Non-Current Liabilities

Others Rp. 14,305,289,720.00  
Other non-business income Rp. 2,961,345,027.00  
Total Rp. 41,158,921,934.00  
According to the Appellant, Rp. 41,584,655.00 Income from outside business. Positive Correction in Comparison IDR 41,117,337,279.00; whereas however, the Appellant does not pay attention to other items in the Financial Statements in the form of additional Liabilities as follows: Addition of Current Liabilities items of IDR 31,440,651,739.00 Addition of Debt to Shareholders IDR 15,299,606,303.00.

Whereas therefore according to the Appellate Correction Panel it is only based on analysis looking only at the addition of Assets and reduction of Liabilities without being based on any evidence as referred to in Article 12 paragraph (3) of the Law on General Provisions and Tax Procedures (UU KUP)

That based on the facts of the trial and the legal considerations mentioned above, the Panel has concluded that there is no evidence indicating the existence of income from outside the business that has not been reported by the Appellant and therefore a positive correction of Rp. 41,117,337,279.00 cannot be maintained;

**d. Negative Correction of Expenses from Outside Business amounting to Rp 10,413,424,000.00**

According to the Appellant that the data from the Audit Report cannot be used as a basis for making corrections to Other Business Expenses, because the Opinion/Opinion of the Auditor is a disclaimer or does not provide an opinion. In other words, the Auditor cannot believe that the Financial Statements which form the basis of the Audit Report, which are also used by the Auditor to make corrections, can be accounted for.

According to the Assembly that based on Article 12 paragraph (3) of the Law on General Provisions and Tax Procedures (UU KUP) stipulates that "If the Director General of Taxes obtains evidence that the amount of tax payable according to the Tax Return as referred to in paragraph 2 is incorrect, the Director General of Taxes determines the amount of tax payable"; that in accordance with the explanatory memory of Article 29 paragraph (2) of the KUP Law it is stipulated that "Opinions and conclusions of the examining officer must be based on strong evidence and based on the provisions of the tax laws and regulations" the disclaimer's opinion, to then be used as an object of Article 26 of Income Tax which is also a dispute; that the Appellant is unable to prove the payment of the Interest Fee on the Foreign Loan of Rp.10,413,424,000.00.

Interest on Foreign Loans is IDR 634,970,100.00, which is 15% of IDR 4,233,134,000.00 (loan principal); whereas based on the abovementioned trial facts and legal considerations, the Panel concluded that the negative correction of the Non-Business Expenses of IDR 634,970,100.00 was maintained and the correction of IDR 9,778,453,900.00 could not be maintained.

Considering : that in this appeal dispute there is no dispute regarding tax

credit Considering : that in this appeal dispute there is no dispute regarding tax rates Considering : that in this appeal dispute there is no dispute regarding administrative sanctions, except that the amount of administrative sanctions depends on the resolution of other disputes ; Considering: that based on the description above, the summary of the Assembly's opinion on the subject matter of the dispute is as follows:

Considering that based on the results of the examination, the explanations of the Appellant and the Appellant in the trial, the data contained in the appeal file as well as the applicable laws and regulations, the Assembly concluded to grant part of the appeal of the Appellant, so that the Net Income for Corporate Income Tax for the 2009 Tax Year is recalculated as follows. Law Number 14 of 2002 concerning the Tax Court, and other laws and regulations related to this dispute.,

Decided: To grant part of the Appellant's appeal against the Decision of the Director General of Taxes Number KEP-00297/KEB/WPJ.07/2016 dated March 23, 2016 concerning Objections to Tax Underpayment Assessment Letters for Income Tax for Fiscal Year 2009 Number 00022/206/09/059/ 14 December 30 2014, on behalf of the Appellant, so the calculation becomes as follows:

Thus it was decided in Jakarta based on Deliberation after the examination in the trial was completed on Monday 5 June 2017, by Judges of Panel XIVA of the Tax Court, with the composition of the Assembly as follows:

Diding Djamaluddin, Ak. MM as Chief Judge, Drs. Haposan Lumban Gaol, MM as Member Judge, Dr. Hartoyo, SE, M.BP. as Member Judge, assisted by Muhammad Akhsanul Fata, SE, MM as Alternate Registrar, Decision Number Put86615/PP/M.XIVA/15/2017 was pronounced in an open session by the Chief Judge of the XIVA Panel on Wednesday, September 13 2017 with the

composition of the Assembly as follows: Diding Djamaludin, Ak. MM as Chief Judge, Drs. Haposan Lumban Gaol, MM as Member Judge, Dr. Hartoyo, SE, M.BP. as Member Judge, assisted by Tin Wajiroh, SE, Ak., MM as Alternate Registrar. Attended by Member Judges and Alternate Registrar, attended by the Appellant but not attended by the Appellant.

#### **4.2 Analysis Result**

In this case the discussion regarding the tax report between the appellant, namely the taxpayer, and the appealed person, namely the Director General of Taxes or a tax agency and the auditor as a tax office officer. The problem started with the appellant providing data on the amount of tax to be paid by the applicant of 41,117,337,279.00. The data came from the financial reports provided to the IDPL auditor report. Without the knowledge of the appellant, this data does not include the cost of adding to the disability, increase in joint operation assets, income other than other businesses, thus making the applicant pay the tax in its entirety.

The petitioner filed an appeal against the losses incurred, because he felt the applicant was harmed and objected to inappropriate data regarding the financial statements provided by the appellant, with a loss of Rp. 3,898,639,301. Even though according to the appellant, the net amount given to the appellant was 41,117,337,279.00, not including the correction tax outside of the business carried out by the applicant. With this matter the final decision given by the panel of judges by carrying out various examinations, the explanation of the appellant and the appealed in the trial, the data contained in the appeal file and the applicable laws and regulations the panel concluded to grant part of the appeal, so that the net income of the corporate income tax year 2009 Tax. Considering the 2014 Law on the Tax Court.

## **5. CONCLUSION**

Tax administration court is one of the legal remedies that can be done by taxpayers

in seeking justice in order to justify tax assessment letters issued by the Directorate General of Taxes through a correction mechanism. The tax administration court is a step that must be developed in order to create an easy and fast settlement of tax disputes. However, the increase in tax revenue has not been matched by an increase in tax compliance in Indonesia. From the tax court case study number 86615/PP/M.XIVA/15/2017.

#### **ACKNOWLEDGEMENTS**

In this case, the author suggests that the tax financial reports must be detailed again so that there are no errors in tax receipts and income tax. So that in handling tax financial reports inside and outside the business can be recorded safely by the auditor or other parties.

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