

## Tax Dispute PT. Bank CIMB Niaga, Tbk. in the Tax Court - Analysis of Decision Number: PUT-117384.15/2014/PP/M.XVI.A Year 2020

Ridho Ribbon Hutapea<sup>1</sup>, Romainur<sup>2</sup>

<sup>1</sup>Master of Law, Universitas Nasional, Jakarta, Indonesia

<sup>2</sup>Universitas Nasional, Jakarta

ridhohutlaw@gmail.com

### Abstract

*The Tax Court is a specialty in the judicial system in Indonesia. The technical development of the judiciary for the Tax Courts is carried out by the Supreme Court and the organizational, administrative, and financial development of the Tax Courts is carried out by the Ministry of Finance. The organizational, administrative and financial guidance carried out by the Ministry of Finance has opened up opportunities for conflict not only at the normative level but also raised doubts and polemics for taxpayers. The method used in this study is a qualitative analysis method. Data collection techniques were carried out by document studies, interviews, and observations. Based on the results of the study, it can be concluded that the urgency in tax dispute decisions with ordinary procedures at the first and last levels of PT. Bank CIMB Niaga, Tbk., in Decision Number: PUT.117384.15/2014/PP/M.XV.A of 2020, that the Judges of the Tax Courts decide cases based on their beliefs which do not mean the judge's feelings as humans but the judge's belief that is supported by valid evidence, and regulated in Article 3 Chapter II of Law Number 48 of 2009 concerning Judicial Power, it is explained about the Principles of the Implementation of Judicial Power.*

### Keywords

ordinary events;  
tax courts;  
tax dispute



## I. Introduction

In Indonesia, the taxation sector plays an important and strategic role in state revenue. The increase in state revenues, particularly from the taxation sector, contributed positively to efforts to reduce the volume and ratio of the budget deficit as well as the ratio of government debt stock to GDP. However, in the implementation of tax collection, sometimes there is a cross of opinion between the Taxpayer and the Fiscus. Therefore, in order to achieve a fair tax dispute resolution, a more concise vertical re-examination level is needed. Settlement of tax disputes based on Law Number 17 of 1997 concerning the Tax Dispute Settlement Agency, which has been implemented by the Tax Dispute Settlement Agency (BPSP) contains many weaknesses. Some of these weaknesses include the obligation to pay off the entire amount of tax owed before filing an appeal, the lack of opportunity for taxpayers to take higher legal remedies on the decisions of the Tax Dispute Settlement Agency, and provide less legal certainty and so that it can cause injustice to taxpayers. as well as Fiscal.

Likewise, tax dispute resolution should be able to guarantee legal certainty and a sense of justice for the disputing parties and can be carried out through procedures and processes that are fast, transparent, inexpensive, and simple. Another weakness is that the Tax Dispute Settlement Agency is not yet a judicial body culminating in the Supreme Court, in accordance with the judicial power system as is the case with other courts.

Then Law Number 14 of 2002 concerning the Tax Court was born, stating that the process of resolving tax disputes through the tax court needs to be carried out quickly, therefore this law regulates the limitation of settlement time, both at the tax court level and at the Court level. Great. In addition, the tax dispute resolution process through the tax court only requires the presence of the appellant or the defendant, while the appellant or plaintiff may attend the trial of his own free will, unless summoned by a judge for reasons that are sufficiently clear.

In the event that an appeal is filed against the amount of tax payable, the settlement of the tax dispute through the tax court requires the taxpayer to pay 50% (fifty percent) of the tax obligations first. However, the tax dispute resolution process through the tax court does not hinder the tax collection process. Also the decision at the Tax Court is a final decision that has permanent legal force, but it is still possible to file a judicial review to the Supreme Court, prior to the existence of a Tax Court.



**Figure 1. Tax Court Process**

The Tax Court is not under the Supreme Court but under the Ministry of Finance. Many people are worried that this situation will affect the independence of judges in examining and deciding cases so that it can potentially lead to a conflict of interest that can damage the objectivity of the tax court.

In the case of the subject of the Tax Court Institution in an unbalanced state, namely between the taxpayer or the tax bearer and the authorized official. An independent judge will take on a role to make this situation more balanced. The judiciary as a symbol of the rule of law and the last bastion of justice should be impartial, and providing equal legal treatment is the dream of all levels of society. Judges are the implementers and spearheads of the judiciary and who interact with the community are required to have quality and professionalism in researching, weighing, and determining legal decisions for a case.

The objective of administering judicial power is to foster the independence of the administrators of judicial power in the context of realizing a quality judiciary. The independence of the organizers is carried out by increasing their integrity, knowledge, and abilities. A quality judiciary is a product of these judicial administrators.

Since the law is a political product, it will not be perfect. The solution is to rely on judicial decisions as good examples of best practice. The judge through his decision is responsible for completing and filling in the imperfect parts of the law. The task of the judicial judge is to receive, examine, and adjudicate and is obliged to assist the justisiabelen (the seeker of justice) in resolving every case that is brought to him.

In the decision that has been handed down, the judge determines the rights and obligations of the disputing parties so that legal certainty, justice and expediency arise. The purpose of the parties taking the case process in the judiciary is to obtain a determination of how the law is in a case, namely how the legal relationship between the litigants and everything that has been decided can be carried out. So the expected result of the parties is that all rights and obligations that have been given in material law, both in the form of written and unwritten law can be realized through the judiciary.

## **II. Research Method**

The research method used in this study is a qualitative descriptive method. The type of data used in this research is qualitative data, which is categorized into two types, namely primary data and secondary data. In preparing the writing of this thesis, the research was conducted by taking the location at PT. Bank CIMB Niaga, Tbk. In order to obtain data relevant to the discussion of this paper, the authors carried out data collection techniques in the form of Library Research and Field Research. which refers to sources available both online and offline such as: scientific journals, books and news sourced from trusted sources. These sources are collected based on discussion and linked from one information to another. Data collection techniques used in this study were observation, interviews and research. This data is analyzed and then conclusions are drawn.

## **III. Discussion**

### **3.1 Tax Dispute Cases With Ordinary Events**

In the right to be entitled to examine and adjudicate on ordinary events tax disputes at the first and final level against the Director General of Taxes Number KEP-00659/KEB/WPJ.19/2017 dated 17 July 2017 concerning Taxpayer Objections to the Tax Certificate of Underpayment of Corporate Income Tax for the year 2014 Tax Number 00004/206/14/091/16 dated 22 April 2016, which is registered in the dispute file Number 117384.15/2014/PP, has made the following decision in the dispute between:

PT. Bank CIMB Niaga, Tbk., TIN.: 01.310,668.7-091,000, having its address at Graha Niaga, Jl. Gen. Sudirman Kav.58, Kebayoran Baru, South Jakarta 12190 (Correspondence Address: Menara Sentrajaya Lt. 31, Jl. Iskandarsyah Raya No.1A-Blok M, South Jakarta 12160), in this case represented by Ms. Wan Razly Abdullah bin Wan Ali as Director, based on the Deed of Decision of the Annual General Meeting of Shareholders of PT. Bank CIMB Niaga, Tbk., Number 31 dated August 29 2016, made by Notary Jakarta Number 21/MPDN.JKT SELATAN/CT/VIII/2016 dated August 1, 2016, as a substitute for Notary Ashoya Ratam, SH., M.Kn ., hereinafter referred to as the Petitioner for Appeal.

1. Director General of Taxes, domiciled at Jl. General Gatot Subroto Number 40-42 Jakarta, hereinafter referred to as the Appellant of the Tax Court:
2. Have read the Decree of the Head of the Tax Court Number: 00261/PP/BR/2017 dated February 15, 2018.
3. Having read the Letter of Application for Appeal Number; 155/WR/KP/2017 dated October 12, 2017.

4. Have read the Letter of Appeal Number: S-4060/WPJ.19/2017 dated January 31, 2018.
5. Have read Rebuttal Number: 006/WR/KP/2018 dated January 31, 2018.
6. Having heard the statements of the disputing parties in the trial.
7. Have read and examined written evidence and other letters submitted by the parties that were shown in the trial.

### 3.2 About Dispute Issues

Whereas in the Assessment Letter of Underpayment of Corporate Income Tax for 2014 Fiscal Year Number: 00004/206/14/091/16 dated 22 April 2016 issued by KPP for Large Taxpayers One with the following calculations:

1	Penghasilan Netto		Rp	4,007,237,742,478
2	Penghasilan Kena Pajak		Rp	4,007,237,742,478
3	PPH yang terutang		Rp	1,001,809,435,620
4	Pengembalian PPh Pasal 24 yang telah diperhitungkan tahun lalu		Rp	-
5	Jumlah PPh Terutang		Rp	1,001,809,435,620
6	Kredit Pajak			
	a. PPh ditanggung pemerintah	Rp		-
	b. Dipotong / dipungut oleh pihak lain:			
	b.1. PPh Pasal 21	Rp		-
	b.2. PPh Pasal 22	Rp		-
	b.3. PPh Pasal 23	Rp		-
	b.4. PPh Pasal 24	Rp		-
	b.5. Lain-lain	Rp		-
	b.6. Jumlah (b.1 + b.2 + b.3 + b.4 + b.5)	Rp		-
	c. Dibayar sendiri :			
	c.1. PPh Pasal 22	Rp		-
	c.2. PPh Pasal 25	Rp	842,921,249,250	
	c.3. PPh Pasal 29	Rp		-
	c.4. STP (pokok kurang bayar)	Rp		-
	c.5. Fiskal Luar Negeri	Rp		-
	c.6. Lain-lain	Rp		-
	c.7. Jumlah (c.1 + c.2 + c.3 + c.4 + c.5 + c.6)	Rp	842,921,249,250	
	d. Diperhitungkan :			
	d.1. SKPPKP	Rp		-
	e. Jumlah Pajak yang dapat dikreditkan (a+b.6+c.7-d.1)		Rp	842,921,249,250
7	Pajak yang tidak/kurang bayar (5-6.e)		Rp	158,888,186,370
8	Sanksi Administrasi			
	a. Bunga Pasal 13 (2) KUP	Rp	50,844,219,638	
	b. Kenaikan Pasal 13 (3) KUP	Rp		-
	c. Bunga Pasal 13 (5) KUP	Rp		-
	d. Kenaikan Pasal 13A KUP	Rp		-
	e. Kenaikan Pasal 17C (5) KUP	Rp		-
	f. Kenaikan Pasal 17D (5) KUP	Rp		-
	g. Jumlah sanksi administrasi (a+b+c+d+e+f)		Rp	50,844,219,638
9	Jumlah PPh yang masih harus dibayar (7+8.g)		Rp	209,732,406,008
Terbilang: DUA RATUS SEMBILAN MILYAR TUJUH RATUS TIGA PULUH DUA JUTA EMPAT RATUS ENAM RIBU DELAPAN RUPIAH				
10	Jumlah kurang bayar yang disetujui berdasarkan Pembahasan Akhir Hasil Pemeriksaan		Rp	(82,661,076,250)
Terbilang: DELAPAN PULUH DUA MILYAR ENAM RATUS ENAM PULUH SATU JUTA TUJUH PULUH ENAM RIBU DUA RATUS LIMA PULUH RUPIAH				

Figure 2. Dispute Issues

Whereas on the a quo Tax Certificate, the Appellant filed an objection with Letter Number: 003/DIR/VII/2016 dated 20 July 2016 and with Appeals Decision Number; KEP-00659/KEB/WPJ. 19/2017 dated 17 July 2017 the objection was rejected, so with Letter Number: 155/WR/KP/2017 dated 12 October 2017, the Appellant filed an appeal.

The Petitioner for the Appeal in the Letter of Appeal Number: 155/WR/KP/2017 dated October 12, 2017, basically stated the following:

Herewith allow the Appellant to file an appeal against the Appeals Decision Letter Number: 00659/KEB/WPJ.19/2017 dated 17 July 2017 concerning the Taxpayer's Objection

to the SKPKB PPh Bandan Number: 00004/206/14/091/16 for the 2014 fiscal year dated 22 April 2016, which the Appellant received on 19 July 2017 (hereinafter referred to as the "Truth Decision"), as attached to the Appeal Letter.

### 3.3 Fulfillment of Formal Requirements for Letter of Appeal

The application for appeal is made in accordance with the provisions regarding the submission of an application for appeal stipulated in Law Number 6 of 1983 as last amended by Law Number 28 of 2007 concerning General Provisions and Tax Procedures (UU KUP) and Law Number 14 of 2002 concerning the Tax Court (Tax Court Law), as described further below.

1. That this application for appeal is filed based on the provisions of Article 27 paragraph (1) of the KUP Law which fully states as follows: "Taxpayers may file an appeal only to the tax court against the Decision Letter of Objection as referred to in Article 26 paragraph (1)."
2. Whereas Article 35 paragraph (1) of the Tax Court Law requires that an appeal must be made in the Indonesian language. Article 35 paragraph (1) of the Tax Court Law in full states as follows: "An appeal is filed with an appeal letter in Indonesian to the Tax Court."
3. Whereas the application for this appeal is filed within the period required by Article 27 paragraph (3) of the KUP Law and Article 35 paragraph (2) of the Tax Court Law, each of which states as follows:

Article 27 paragraph (3) of the KUP Law:

"The application as referred to in paragraph (1) shall be submitted in writing in the Indonesian language, with clear reasons no later than 3 (three) months from the receipt of the Objection Decision Letter and attached with a copy of the Objection Decision Letter."

Article 35 paragraph (2) of the Tax Court Law:

An appeal is filed within 3 (three) months from the date of receipt of the decision being appealed, unless otherwise provided for in the tax laws."

Whereas considering that the Appellant received the Objection Decision which is the object of this Appeal petition on 19 July 2017, and this Appeal petition was filed on 12 October 2017, this Appeal is submitted within the timeframe as required by the above provisions.

Article 36 paragraph (1), paragraph (2) and paragraph (3) of the Tax Court Law, states as follows:

- a. "Against 1 (one) Decision, 1 (one) Letter of Appeal is submitted.
- b. "An appeal is submitted accompanied by clear reasons, and the date of receipt of the decision letter being appealed is included."
- c. "A copy of the decision being appealed is attached to the Letter of Appeal."

Whereas the Appellant's Letter of Appeal was prepared in writing in Indonesian with clear reasons, the Appellant submitted only against 1 (one) Decision, namely KEP-00659/KEB/WP J.19/2017 dated 17 July 2017 whose appeal was accepted dated July 19, 2017 so that it is still within 3 (three) months of the decision being appealed, and a copy is attached. Whereas therefore the Appellant's Letter of Appeal has complied with the provisions of Article 35 paragraph (2), Article 36 paragraph (1), paragraph (2), and paragraph (3) of the Law on the Tax Court Jo. Article 27 paragraph (3) of the KUP Law.

4. Whereas Article 36 paragraph (4) of the Tax Court Law states as follows:  
"Apart from the requirements as referred to in paragraph (1), paragraph (2), and paragraph (3) as well as Article 35, in the event that an appeal is filed against the



amount of tax payable, an appeal may only be filed if the amount owed is intended to have been paid of 50 % (fifty percent)."

The provisions of Article 27 paragraph (5c) of the KUP Law provide an exception to the definition of tax payable where it is stated that the amount of tax that has not been paid at the time of filing the appeal is not yet the tax payable until the Appeal Decision is issued. Exceptions are given on the principle that Taxpayers are allowed not to pay tax assessments caused by tax audit corrections that were not approved by the Taxpayers during the final discussion, as long as the Taxpayers file an objection to the tax assessments and/or file an appeal to the Tax Court.

Whereas accordingly, on the SKPKB of Corporate Income Tax Number: 00004/206/14/091/16 for the 2014 fiscal year dated 22 April 2016, the Appeals Applicant has paid the tax underpayment of Rp. 37,088.017,447 ,- on July 21, 2016 with NTPN E26AE50MRE24H6UU.

Whereas therefore the Application for Appeal has complied with the provisions in Article 36 paragraph (4) of the Tax Court Law mentioned above.

Whereas considering that all the provisions for the formality of submitting an appeal as described above have been fulfilled by the Appellant, the Appeal Petition hereby requests that this appeal be accepted and considered by the Panel of Judges of the Tax Court.

### 3.4 Considerations of the Tax Court Judges

- Considering, that in this appeal dispute there is no dispute regarding credit.
- Considering, that in this appeal dispute there is no dispute regarding Administrative Sanctions.
- Considering, whereas based on the description above, the recapitulation of the opinion of the Panel of Judges, on the correction of the Appellant on the Net Income of Corporate Income Tax for the 2014 Fiscal Year, amounting to Rp. 966,197. 049.653.00 consisting of 9 (Nine) corrections are as follows:

**Table 1.** Considerations of the Tax Court Judges

Uraian Sengketa atas aktiva	Nilai Sengketa (Rp)	Dipertahan Majelis (Rp)	Tidak Dapat Dipertahan Majelis (Rp)
A. Koreksi Pendapatan Operasional	17.492.523.839,00	1.288.856.684,00	16.203.667.155,00
B.1.a. Koreksi Biaya Promosi CIMB Niaga Indobesia Master	22.643.544.000,00	22.643.544.000,00	-
B.1.b. Koreksi Biaya Nasabah	3.983.627.545,00	-	3.983.627.545,00
B.1.c. Koreksi Biaya Promosi Terkait Lain-lain (Penerima Tanpa NPWP)	27.759.849.075,00	-	27.759.849.075,00
B.2. Koreksi Biaya Entertainment	328.651.798,00	62.895.998,00	265.755.800,00
B.3. Koreksi Biaya Depresi	7.644.606.632,00	7.644.606.632,00	-
C.1. Koreksi Penghapusan Piutang tidak dapat ditagih	2.365.402.504,00	-	2.365.402.504,00
C.2. Koreksi Bunga kepada Karyawan	40.330.354.667,00	40.330.354.667,00	-
C.3. Koreksi Pendapatan Bunga atas Kredit Non Performing	843.648.489.593,00	843.648.489.593,00	-
Jumlah	966.197.049.653,00	915.618.747.574,00	50.578.302.079,00

- Considering, whereas based on the results of the examination and assessment of the Assembly on the evidence and information provided by the parties revealed in the trial as well as the tax laws and regulations, the Assembly believes in partially granting the appeal of the Appellant, so that the 2014 Corporate Income Tax Net Income is calculated. return as follows:
  - Net Income by Complainant Rp. 4,007,237,742,478.00
  - Correction canceled by the Assembly Rp. 50,578,302,079.00
  - Net Income According to the Assembly Rp. 3,956,659,440,399.00

### 3.5 Verdict

In view of Law Number 14 of 2002 concerning the Tax Court, and other statutory provisions as well as applicable laws and regulations relating to this dispute. Partially granted the appeal of the Appellant against the Director of Taxes Decree Number KEP-00659/KEB/WPJ.19/2017 dated 17 July 2017 concerning the Taxpayer's Objection to the 2014 Corporate Income Tax Underpayment Assessment Letter Number 00004/206/14/091/16 dated 22 April 2016, on behalf of PT. Bank CIMB Niaga, Tbk., TIN.: 01.310,668.7-091,000, having its address at Graha Niaga, Jl. Gen. Sudirman Kav.58, Kebayoran Baru, South Jakarta 12190 (Correspondence Address: Menara Sentrajaya Lt. 31, Jl. Iskandarsyah Raya No.1A-Blok M, South Jakarta 12160), so the calculation changes to the following:

**Table 2. Verdict**

Uraian	Rp
Penghasilan Neto	3.956.659.440.399,00
Kompensasi Kerugian	0
Penghasilan Kena Pajak	3.956.659.440.399,00
Pajak Penghasilan (PPH) Terutang	989.164.860.099,00
Kredit Pajak	842.921.249.250,00
Pajak Penghasilan Kurang Bayar/(Lebih) Bayar	146.243.610.849,00
Sanksi Administrasi	46.797.955.471,00
Jumlah PPh yang masih harus/(lebih) dibayar	193.041.566.320,00

This was decided in Jakarta based on the Deliberation after the examination in the trial was completed on Tuesday, December 11, 2018 by the XVIA Assembly of the Tax Court, with the composition of the Assembly as follows:

Drs. Djoko Joewono Hariadi, M.Sc. as Chief Judge  
 Ruwaidah Afiyati, SE., SH., MM., MH., CFA. as Member Judge  
 Anwar Syahdat, SH., ME. as Member Judge  
 assisted by :  
 Mohammad Irwan, SE., MM. as Substitute Registrar

### 3.6 Author's Analysis

The author's analysis in tax disputes includes disputes filed for objections, appeals, and lawsuits at the tax court. The objection is entered as part of the tax dispute because without objection there is no appeal. An appeal as part of a tax dispute essentially begins with an objection that is resolved at the Directorate General of Taxes. The Directorate General of Taxes as the first gate in the tax court shall calculate and determine taxes in accordance with the provisions of the applicable tax laws and regulations.

In terms of tax audits, the Directorate General of Taxes has prepared a selection system and assessment standard based on certain criteria that are compiled using measurable

variables in a computer application program that can be used as a tool to calculate a certain risk score on the level of taxpayer compliance. . This scoring system is referred to as the Selection Criteria System. A number of variables used include data consisting of elements reported in the taxpayer's tax return (SPT).

The application of Article 36 A of Law Number 16 of 2009 concerning General Provisions and Tax Procedures strongly supports the efforts of the Directorate General of Taxes in evaluating the performance of employees in the tax court environment. This article aims as a control function in the form of sanctions for violations as well as protection for employees of the Directorate General of Taxes in carrying out their duties. The application of Article 36 A is not sufficient if it is not balanced with direct supervision in the field. Direct supervision in the field can at least reduce the occurrence of indications of existing violations.

In connection with the foregoing, it can be said that in order to achieve a tax court procedure, namely to seek the truth, evidence is needed. Proof is an attempt to calculate events to be proven true. In making a decision to seek the truth, the judge decides the case based on the examination and the results of the examination in the trial. Decisions are taken based on the results of the evidence assessment, and based on the relevant tax laws and regulations, as well as based on the judge's conviction. Tax court judges are expected to be able to make decisions based on applicable law and also based on the fairest belief and provide benefits to the community, so that tax law and the Tax Court Institution will be able to function as a driving force for the community in developing and fostering tax law order.

The Panel of Judges must be impartial and must reject intervention from any party. Tax Court Judges decide cases based on their beliefs which do not mean the judge's feelings as human beings, but the judge's belief that is supported by legal evidence according to the law in the context of realizing the objectivity of the tax court by applying Article 78 of the Tax Court Institution Law and its decision. be accountable to God Almighty as stated in Article 84 of the Law on the Tax Judiciary Institution that decisions are given for the sake of justice based on the Almighty God. Income Tax is a type of subjective tax whose tax obligations are attached to the relevant Tax Subject (Hendayana, 2021). Tax is a requirement that has been established by the state as a civic duty (Marpaung, 2020). Tax is a compulsory levy paid by the people to the state and will be used for the benefit of the government and the general public (Siregar, 2019).

The existence of this Tax Court is whether it is an independent court or a special court under the judicial environment under the Supreme Court, whether it is the general court environment or the state administrative court environment. The results of this study indicate that the position of the tax court which stands on two legs between the executive and the judiciary should be able to stand alone in the judiciary, both from supervision, budgeting, and guidance by the Supreme Court. In accordance with the provisions of Article 27 of Law Number 48 of 2009 concerning Judicial Powers that special courts can only be formed in one of the judicial environments under the Supreme Court. It would be better if the tax court could become a judicial institution that handles tax administration issues which could be the same as other special courts in the general court, even though the tax court is in the state administrative court. The position of the tax court is completely under the Supreme Court so that it can become an independent institution that does not rely on either the government or the Supreme Court.

The judge's decision is not merely the application of law and justice to a case, but more than that, that the judge's decision is very loaded with the process of struggle between the judge's morals and reasoning. After the judge strives to carry out a comprehensive understanding of all aspects of the case in question, then it is linked to the facts and evidence of the trial, evaluates the evidence presented, selects and interprets and applies the relevant legal principles and rules, then formulates the reasons and consideration of decisions, all of



which ultimately lead to the formulation of the order/dictum of the decision. The judge's moral and reasoning struggle concerns the value system and legal ideology that the judge believes to be true, moral and ethical choices, all of which are related to issues of competence, experience and integrity of judges.

There is nothing for a judge to worry about regarding the decision he made, as long as the decision has been handed down honestly, as it is, through a trial process that takes place in a fair, objective, transparent, impartial manner, according to the facts and evidence revealed at trial and can be accounted for ethically, morally, legally, and in harmony with the "For the sake of Justice Based on the One Godhead". Judges in adjudicating cases have guaranteed their independence from all forms of intervention. However, the use of the principle of independence of judiciary should not be misused in such a way that it turns into anarchy of judiciary.

Whereas tax is a transfer from the private sector to the government sector by not receiving direct remuneration, so that more than 70% of state revenue is obtained from tax collection. With a self-assessment system where taxpayers are given the trust to calculate the amount of tax payable for themselves, sometimes in the amount of tax owed there is a dispute about the amount of tax paid either according to the tax collector (tax collector) and the taxpayer, so here a tax dispute arises regarding the amount of tax paid. owed. So that in the settlement of tax disputes, a separate judicial body is needed to resolve the tax dispute resolution. The existence of the Tax Court occupies a special place in the organizational structure of the judiciary, although initially the presence of the tax court was a problem whether this tax court could be classified as a judicial institution considering that the legal basis of the tax court, namely Law Number 14 of 2002 concerning the Tax Court, did not contain and explain clearly the position and position of the tax court. However, the tax court's position as a special court under the environment of the state administrative court is confirmed in Article 9 A of Law Number 51 of 2009 concerning the State Administrative Court, so it is quite clear that the tax court is one part of the judicial system in Indonesia.

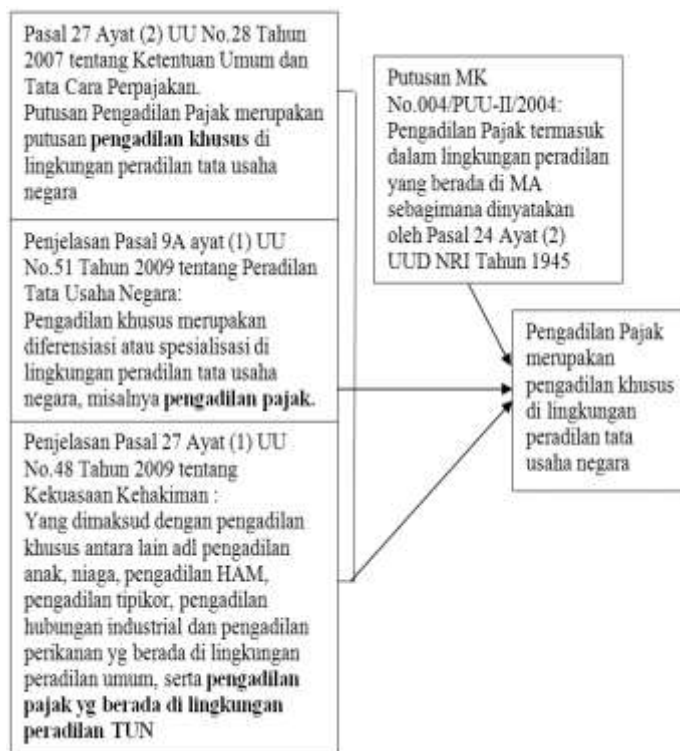
The position of the Tax Court is regulated in Article 2 of Law no. 14 of 2002 concerning the Tax Court, which determines that the Tax Court is a judicial body that exercises judicial power for Taxpayers or Tax Insurers seeking justice for Tax Disputes. From the above provisions, the position of the Tax Court is the executor of judicial power, so it can be said that the Tax Court is a judicial institution whose function is to resolve tax disputes.

Juridically, Law Number 14 of 2002 concerning the Tax Court does not determine the position of the Tax Court as mandated by Article 25 and Article 27 of Law Number 48 of 2009 concerning Judicial Power. In the sense that Law Number 14 of 2002 does not determine that the Tax Court is a special court under the four existing judicial circles.

The provisions regarding the Tax Court as a special court within the state administrative court can only be found in the explanation of Article 27 paragraph (1) of Law Number 48 of 2009. Therefore, the provisions of Article 2 of Law Number 14 of 2002 need to be revised, so that the norm stipulates that the Tax Court is a special court within the state administrative court. It is intended that the existence of the Tax Court is in accordance with Law Number 48 of 2009 concerning Judicial Power.

The tax court's position as a special court under the State administrative court is confirmed in Article 9 A of Law Number 51 of 2009 concerning the State Administrative Court, that in the State administrative court, specializations can be held which are regulated by law. The specialization in question is a differentiation or specialization in the State administrative court environment, and the tax court is included in the specialization which will culminate in the Supreme Court.

So the position of the tax court in the judicial system in Indonesia can be explained in the picture section, as follows:



*Figure 3. The Position of Tax Court*

In the author's analysis of tax disputes and analysis of tax court decisions, the authors can describe as follows:

#### 1. Tax Dispute Analysis

The purpose of this research is to find out how the types, tax collection systems, and obstacles in tax collection in Indonesia and how to resolve tax disputes between taxpayers and tax collectors to fulfill a sense of justice based on Law Number 14 of 2002. using normative juridical research methods, concluded, namely:

- a. The target of tax imposition based on the type applicable in Indonesia is divided into 3 (three) types, namely:
  - 1) Direct taxes and indirect taxes.
  - 2) Subjective tax and objective tax.
  - 3) Central Government Tax and Local Government Tax.

The Tax Collection System is an approach from the subjective side of who is authorized by law to carry out tax collection tasks. The tax collection system is divided into three parts , namely:

- 1) Self-Assessment System.
  - 2) Withholding Tax System.
  - 3) Official Assessment System.
- b. Settlement of tax disputes through the Tax Court is regulated in Chapter IV Article 34 to Article 42 of Law Number 14 of 2002, including the regulation of legal remedies for Judicial Review to the Supreme Court. Against a decision, a lawsuit or an appeal letter is filed. In carrying out their tax obligations, taxpayers are often dissatisfied with the implementation of the law implemented by the Fiskus (Tax Collector), either because of the issuance of tax assessments, or

because of the implementation of billing based on the provisions of the applicable law. Tax objections arise because there is a determination on the decision of the tax agency that is deemed unfair by the taxpayer. The tax law itself emphasizes what legal remedies can be taken by taxpayers to resolve tax disputes that arise, whether the dispute resolution is carried out at the Directorate General of Taxes itself, or the settlement is carried out outside the Directorate General of Taxes, namely in the Tax Court and the Tax Court. Great. Apart from taxpayers, the Director General of Taxes can also take legal remedies in the case of a judicial review, which is an extraordinary legal remedy. Legal efforts can be made by a third party, in the case of filing a rebuttal that is submitted to the District Court.

The author finds legal problems that there are several factors that cause disputes, namely differences in data, differences in data interpretation, and differences in legal interpretations. In addition, it was also found that there are several aspects that are considered by the Panel of Judges in deciding the dispute, namely the completeness and quality of supporting documents, information from each party, and the knowledge of the Judge.

## 2. Analysis of Tax Court Decisions

The purpose of this thesis research is to analyze the factors that influence the decision of the Tax Court trial in the Value Added Tax appeal case, the average settlement time of a dispute, and what disputes often occur. The court's decision on the case in the Director General of Taxes Decree Number: KEP-00659/KEB/WPJ.19/2017 dated 2017 concerning the Taxpayer's Objection to the 2014 Corporate Income Tax Underpayment Assessment on behalf of PT. Bank CIMB Niaga, Tbk., which was last published by the secretariat of the tax court. The data used in this study is secondary data obtained from the Tax Court, which is the secretariat site of the Tax Court. The results of the analysis of this study indicate, the Tax Court's decision partially granted. These factors are not regulated in law, supporting evidence, different interpretations of the rules, complexity of business transactions.

## IV. Conclusion

Based on the results of this thesis research and the discussion that has been described by the authors above, the authors can draw the following conclusions:

1. In the legal analysis of tax dispute resolution at the tax court, it can be done through appeals and lawsuits with fast proceedings or ordinary procedures. An appeal can be taken if the taxpayer in resolving the tax dispute does not accept the result of the objection decision. A lawsuit can be taken if the taxpayer does not accept the implementation of the forced letter, a warrant to carry out a confiscation or an auction announcement, a preventive decision in the context of tax collection, decisions related to the implementation of tax decisions other than those stipulated in Article 25 paragraph (1) and Article 26 Law Number 16 of 2009 concerning General Provisions and Tax Procedures, issuance of tax assessment letters or objection decisions which are not in accordance with the procedures or procedures stipulated in the provisions of tax laws and regulations
2. In the legal considerations of the judge in the tax dispute decision with the usual procedure at the first and last level of PT. Bank CIMB Niaga, Tbk., in Decision Number: PUT.117384.15/2014/PP/M.XV.A of 2020, that the Judges of the Tax Courts decide cases based on their beliefs which do not mean the judge's feelings as humans but the judge's belief is supported by valid evidence according to the law in the context

of realizing the objectivity of the tax court by applying Article 78 of the Law on the Tax Court Institution and the decision is accountable to God Almighty as referred to in Article 84 of the Law on the Tax Court of Justice that the decision is given irrah-irah for the sake of Justice Based on God Almighty

### References

- Achmad Ali. Menguak Teori Hukum (Legal Theory) & Teori Peradilan (Judicialprudence): Termasuk Interpretasi Undang-Undang (Legisprudence), Volume 1 Pemahaman Awal, Cetakan ke-4. Jakarta: Kencana, 2012.
- Adrian Sutedi. Hukum Pajak, Editor: Tarmizi, Cetakan kedua. Jakarta: Sinar Grafika, 2013.
- Ahmad Mujahidin. Peradilan Satu Atap Di Indonesia, Cetakan pertama. Bandung: PT Refika Aditama, 2007.
- Antonius Sudirman. Hati Nurani Hakim Dan Putusannya: Suatu Pendekatan Dari Perspektif Ilmu Hukum Perilaku (Behavioral Jurisprudence) Kasus Hakim Bismar Siregar, Cetakan Ke I. Bandung: PT Citra Aditya Bakti, 2007.
- B. Arief Sidarta, Kajian Kefilsafatan Tentang Negara Hukum, Jurnal Hukum JENTERA, Edisi Ke-3-TahunII, November 2004, Hlm. 123.
- Bernard L. Tanya, dkk, Teori Hukum: Strategi Tertib Manusia Lintas Ruang dan Generasi, Cetakan IV. Yogyakarta: Genta Publishing, 2013.
- Bohari. Pengantar Hukum Pajak, Edisi revisi, Cetakan 4. Jakarta: PT RajaGrafindo Persada, 2012.
- Deden Sumantry, Reformasi Perpajakan Sebagai Perlindungan Hukum Yang Seimbang Antara Wajib Pajak Dengan Fiskus Sebagai Pelaksana Terhadap Undang-Undang Perpajakan, Jurnal Legislasi Indonesia, Vol8 No.1-April 2011, Hlm. 14.
- Dewi Kania Sugiharti. Perkembangan Peradilan Pajak Di Indonesia, Cetakan Pertama. Bandung: PT Refika Aditama, 2005.
- Faisal. Menorobos Positivisme Hukum: Kritik Terhadap Peradilan Asrori, Cetakan Kedua. Jakarta: Gramata Publishing, 2012.
- Fidel. Tax Law: Proses Beracara Di Pengadilan Pajak Dan Peradilan Umum, Cetakan I. Jakarta: PT. Carofin Media, 2014.
- Galang Asmara. Peradilan Pajak & Lembaga Penyanderaan (Gijzeling) Dalam Hukum Pajak Di Indonesia, Cetakan I. Yogyakarta: LaksBang PRESSindo, 2006.
- Hanantha Bwoga, Pemeriksaan Pajak (Hampir Selalu Menimbulkan Kontroversi, Jurnal Informasi, Perpajakan, Akuntansi, Dan Keuangan Publik, Vol.1 No.2 Juli 2006, Hal. 136.
- Hendayana, Y. et.al. (2021). How Perception use of e-Filing Technology Enhance Knowledge of Indonesian Disability Taxpayers and Impact Tax Compliance. Budapest International Research and Critics Institute-Journal (BIRCI-Journal) Vol 4 (2): 1687-1696.
- Johnny Ibrahim. Teori Dan Metode Penelitian Hukum Normatif, Edisi Revisi, Cetakan Keenam. Malang: Bayumedia Publishing, 2012.
- Karianton Tampubolon. Praktek, Gugatan, Dan Kasus-Kasus Pemeriksaan Pajak, Cetakan Pertama. Jakarta: PT Indeks, 2013.
- Marpaung, A. (2020). Zakat Regulation as a Reduction of Income Tax in Indonesia. Budapest International Research and Critics Institute-Journal (BIRCI-Journal) Vol 3 (3): 2109-2116.
- M. Natsir Asnawi. Hermeneutika Putusan Hakim, Cetakan Pertama. Yogyakarta: UII Press, 2014.

- M. Syamsudin. Rekonstruksi Budaya Hukum Hakim Berbasis Hukum Progresif (Studi Hermeneutika Hukum Terhadap Pembuatan Putusan Kasus- Kasus Korupsi), Disertasi pada Program Doktor Ilmu Hukum Universitas Diponegoro Semarang 2010.
- M. Yahya Harahap. Kekuasaan Mahkamah Agung Pemeriksaan Kasasi Dan Peninjauan Kembali Perkara Perdata. Jakarta: Sinar Grafika, 2008.
- Moh. Mahfud M.D. Membangun Politik Hukum Menegakkan Konstitusi. Jakarta: Pustaka LP3ES, 2006.
- Muhammad Djafar Saidi. Perlindungan Hukum Wajib Pajak Dalam Penyelesaian Sengketa Pajak, Ed. 1. Jakarta: PT RajaGrafindo Persada, 2007.
- Muhammad Erwin. Filsafat Hukum: Refleksi Kritis Terhadap Hukum, Edisi 1, Cetakan ke-2. Jakarta: Rajawali Pers, 2012.
- Muntoha. Negara Hukum Indonesia Pasca Perubahan UUD 1945, Cetakan Pertama. Yogyakarta: Kaukaba, 2013.
- Mustaqiem. Perpajakan Dalam Konteks Teori Dan Hukum Pajak Di Indonesia, Cetakan Pertama. Yogyakarta: Buku Litera Yogyakarta, 2014.
- Peraturan Menteri Keuangan Nomor: 194/PMK.03/2007 tentang Tata Cara Pengajuan dan Penyelesaian Keberatan.
- Peraturan Direktur Jenderal Pajak Nomor: PER-52/ PJ/ 2010 tentang Tata Cara Pengajuan dan Penyelesaian Keberatan Pajak Penghasilan, Pajak Pertambahan Nilai dan/ atau Pajak Penjualan Atas Barang Mewah.
- Rochmat Soemitro. Asas Dan Dasar Perpajakan 2, Edisi Revisi, Cetakan kelima. Bandung: PT Refika Aditama.
- Rudi Suparmono. Kewenangan Hakim Dalam Memutus Perkara Di Luar Dakwaan Jaksa Penuntut Umum, Laporan Penelitian, Puslitbang Hukum Dan Peradilan, Badan Litbang Diklat Kumdil, Mahkamah Agung RI, Tahun 2014.
- S.F. Marbun. Peradilan Administrasi Negara Dan Upaya Administratif Di Indonesia, Edisi Pertama, Cetakan Pertama. Yogyakarta: Liberty Yogyakarta, 1997.
- Salim HS dan Erlies Septiana Nurbani. Penerapan Teori Hukum Pada Penelitian Tesis Dan Disertasi, Cetakan ke-1. Jakarta: PT RajaGrafindo Persada, 2013.
- Satjipto Rahardjo. Ilmu Hukum. Bandung, Citra Aditya Bakti, 2000.
- Setu Setywan dan Eny Suprpti. Perpajakan, Edisi Pertama, Cetakan Ketiga. Malang: Bayu Media Publishing dan UMM Press, 2006.
- Siregar, R., Nasution, I.R., and Arifin, M.A. (2019). The Effect of Corporate Taxpayer Compliance, the Increase of Corporate Taxpayers' Number and Tax Audits on Income Tax Receipts of Article 25 with Taxation Sanctions as a Moderating Variable in KPP Pratama Medan Petisah. *Budapest International Research and Critics Institute-Journal (BIRCI-Journal) Vol 2 (4): 385-400.*
- Sjachran Basah. Eksistensi Dan Tolok Ukur Badan Peradilan Administrasi Di Indonesia, Cetakan ke-6. Bandung: PT Alumni, 2014.
- Sunarto. Peran Aktif Hakim Dalam Perkara Perdata, Edisi Pertama, Cetakan ke-1. Jakarta: Kencana, 2014.
- Undang-Undang Dasar Negara Republik Indonesia 1945.
- Undang-Undang Nomor: 14 Tahun 2002 tentang Pengadilan Pajak. Undang-Undang Nomor 16 Tahun 2009 tentang Ketentuan Umum dan Tata Cara Perpajakan.
- Undang-Undang Nomor: 48 Tahun 2009 tentang Pengadilan Pajak.
- Wildan Suyuthi Mustofa. Kode Etik Hakim, Edisi Kedua, Cetakan ke-1. Jakarta: Kencana, 2013.
- Y. Sri Pudyatmoko. Pengantar Hukum Pajak (Edisi Revisi), Ed. IV. Yogyakarta: ANDI, 2009.