

Transformasi penyelesaian sengketa nilai pabean studi sengketa nilai pabean di pengadilan pajak = The transformation of customs value dispute settlement a case study in tax court

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Abstrak

Conflict of interest importir dengan pemerintah dalam penentuan nilai pabean sebagai dasar perhitungan bea masuk menjadi persoalan internasional. Importir cenderung membayar bea masuk sekecil-kecilnya, sedangkan pemerintah cenderung memungut bea masuk sebesar-besarnya. Karena telah menjadi persoalan dunia dan memengaruhi keadilan, kepastian, dan kemanfaatan perdagangan internasional, the General Agreement on Tariffs and Trade GATT telah membuat Article VII GATT sebagai acuan menghitung nilai pabean dengan tarif advalorem. Di Indonesia, Direktorat Jenderal Bea Cukai DJBC menemukan dan menganggap relatif banyak perhitungan nilai pabean oleh importir secara self assessment tidak tepat sehingga dilakukan koreksi atau penetapan. Sebaliknya, importir menganggap justru DJBC yang tidak tepat dalam menghitung nilai pabean sehingga importir mengajukan keberatan dan/atau banding ke Pengadilan Pajak. Sekitar 90 permohonan keberatan nilai pabean ditolak oleh lembaga keberatan DJBC dan sebaliknya lebih banyak permohonan banding nilai pabean dikabulkan oleh Pengadilan Pajak. Fakta itu menunjukkan kontradiksi perspektif perhitungan nilai pabean antara importir, DJBC, dan Hakim Pengadilan Pajak. Oleh karena itu, perlu diteliti faktor penyebabnya dan dicari solusinya melalui pertanyaan penelitian apakah penetapan nilai pabean di Indonesia telah sesuai dengan ketentuan Article VII GATT, bagaimana eksistensi lembaga keberatan beroep sebagai peradilan semu quasi rechtspraak, dan apakah Pengadilan Pajak dalam menyelesaikan sengketa nilai pabean memberikan keadilan, kepastian, dan kemanfaatan. Berdasarkan hasil penelitian, ditemukan bahwa implementasi perhitungan nilai pabean belum sepenuhnya sesuai dengan ketentuan GATT, lembaga keberatan belum berfungsi dengan baik, dan lembaga Pengadilan Pajak belum berperan sebagaimana mestinya. Oleh karena itu, disarankan agar dilakukan transformasi ketentuan nilai pabean, lembaga keberatan, dan lembaga banding. Di samping itu, perlu dilakukan perbaikan budaya hukum melalui internalisasi ketentuan nilai pabean terhadap importir, pejabat DJBC, dan Hakim Pengadilan Pajak. Sebagai bagian dari kekuasaan kehakiman, seyogianya kelembagaan Pengadilan Pajak sepenuhnya di bawah Mahkamah Agung namun hakimnya harus mempunyai keahlian hukum dan perpajakan. Sebagaimana ruang lingkup perpajakan lebih luas daripada ruang lingkup pajak maka nama Pengadilan Pajak disarankan diganti menjadi Pengadilan Perpajakan. Secara filosofis, perpajakan bukan lagi sebuah kewajiban warga negara, tetapi sebuah hak warga negara berpartisipasi untuk membangun negaranya.

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Conflict of interest between importers and the government in the determination of customs value as a basis for the calculation of import duty has become an international issue. Importers tend to pay the lowest import duties, while the government tends to collect the maximum import duties. Since it has become a global issue and affects the fairness, certainty, and usefulness of international trade, the General Agreement on Tariffs and Trade GATT has set out Article VII GATT as reference in calculating customs value by ad valorem rates. In Indonesia, the Directorate General of Customs DJBC finds and considers relatively large quantities of customs value reported by importers to be incorrect thus requiring correction or determination. On the

other hand, importers consider that DJBC is not appropriate in determining the customs value as a result of which they file objection and/or appeal. Approximately ninety per cent of customs value objection applications are rejected by DGCE objection agencies while on the other hand the Tax Court tends to accept a greater number of customs value appeals. Such fact demonstrates the contradictory perspective in customs value calculation between importers, DJBC, and Tax Court Judges. Therefore, there is a need to examine the causal factors and seek solutions by answering the research questions, namely whether the determination of customs value in Indonesia has been in accordance with the provisions of Article VII GATT; the position of the objection agency *beroep* as quasi judiciary *rechtspraak* ; and whether in resolving customs value disputes the Tax Court provides justice, certainty, and expediency. Based on the research results, it has been found that the implementation of customs value calculation is not fully in accordance with the GATT provisions, the objection agencies are yet to be functioning properly, and the Tax Court is yet to fulfill its function properly. Therefore, it is advisable to transform customs value provisions, the objection body, as well as the appeals agency. In addition, it is necessary to improve the legal culture through internalization of customs value provisions among importers, DGCE officials, and Tax Court Judges. As part of its judicial powers, the institution of the Tax Court should be fully under the Supreme Court; however, judges need to possess legal and taxation skills. Considering that the scope of Taxation Perpajakan is broader than that of Taxes Pajak , it is recommended that the name Pengadilan Pajak Tax Court be changed to Pengadilan Perpajakan Taxation Court . Viewed from a philosophical perspective, taxation is no longer a citizen's duty, but rather a citizen's right to participate in developing his/her country.