



OBSTACLE EXECUTION DECISION COURT TAX AS CONSEQUENCE FINDINGS WRONG WRITING / MISCOUNTING IN THE RELATIONSHIP WITH MANDATORY LEGAL CERTAINTY TAX

Ramadani Yunus, Khalimi, Sartono, Yuhelson, Ramlani Lina Sinaulan
Jayabaya University Jakarta, Indonesia
udadani@gmail.com

Article history:	Abstract:
Received: October 20 th 2022 Accepted: November 20 th 2022 Published: December 30 th 2022	<p>Court tax is court level first and level final in settlement atas dispute tax , because that decision court taxes that have inkracht Becomes decision end have strength law stay . Constitution Number 14 of 2002 concerning court tax state that decision court tax live could implemented with no need again decision authorized official except regulation legislation another set however in implementation execution applicant execution in matter this must tax experience one of the obstacles ie found a typo or miscalculated in decision so that matter the Becomes obstacle in implementation execution. Therefore interesting for done study juridical related how action Director General Tax to decision court taxes that have been miswritten / miscalculated so that Becomes obstacle to execution decision court tax as well as certainty law for must tax to decision court tax included There is a typo / miscalculation</p> <p>Method The method used in this research is juridical law research method - focused normative approach regulation legislation (statute approach) and approach analysis (analytical approach) . Studies conducted use theory certainty law , theory justice law as well as theory related with execution on implementation something decision court . From the results of research could concluded that actions taken by the Director General Taxes on decisions contained therein There is a typo / miscalculation that is make report results study on decision then made base as application rectification intended decision to Court Tax and Director General Tax postpone implementation execution until exists rectification decision accepted. Certainty law for must tax Becomes delayed because decision decision the no have strength executive . As for the suggestion in this study is the panel of judges in check a case in court should more thorough and observant to the decision he made supported with inspection maximum concept by clerks replacement . For rectification decision should no must submit application inspection quick trial to court tax as Circular Letter Director General Tax No. SE-41/PJ/2014 Concerning Handling and Implementation Procedures Appeals Judgment, Judgment Lawsuit and Judgment Reconsideration, for ensure certainty law for must tax.</p>

Keywords: Obstacle Execution , Judgment Court Tax , Writing Mistake/Wrong Count, Certainty Law

INTRODUCTION

Tax Law adhere understand imperative , ie implementation no could postponed . Example in matter submission mind , before there is decision from Director General Tax that object the accepted , then Must Filed taxes object especially formerly pay taxes , as determined . (Aristanti Widyaningsih , 2011). According to Law Number 14 of 2002 concerning the Tax Court (Tax Court Law) provides the following understanding of taxes: "Taxes are all types of taxes collected by the Central Government, including import duties and excise, and taxes collected by regional governments, based on the applicable laws and

regulations." There are 3 types system System collection taxes adopted by the Republic of Indonesia, which can explained as following : System this is a system that delivers authority to government (fiskus) for determine total tax payable , characteristics system this is , ajib Tax characteristic passive , Authority for determine magnitude tax owed is on the fiscus . Tax money new arise after published letter decree taxes by the tax authorities .

Self Assessment System

System is one system collection giving tax trust and responsibility answer to Must Tax lucky calculate , deposit and report alone magnitude tax owed .



Withholding tax System

System this is system collection giving tax authority to party third for cut or pick up magnitude tax owed by Compulsory Tax . Based on the tax collection system, taxes are a product of state administration so that if there is a dispute, it is referred to as a state administration dispute. State administrative disputes are disputes that arise in the field of state administration between people or legal entities civil with body or state administration officials , fine in the center nor in area , as consequence issued state administrative decisions , incl dispute staffing based on regulation applicable laws (Prajudi Atmosudiro , 1994).

subject state administrative disputes (Ali Abdullah M, 2014) is a person or legal entity civil and corporate or state administrative officer . object state administrative disputes from , Object dispute characteristic passive who have elements : (a) In the form of Determination Written , (b) Issued by the Agency or State Administrative Officer, (c) Is concrete , individual and final, (e) generate consequence law for somebody or legal entity civil . object Disputes that are fictitious negative , ie decision characteristic refusal fictitious negative because of the body or TUN officials do not once emit letter decision so that was sued no letter decision .

Justice state administration is every form settlement than something actions (officials , agencies) of the State Administration which are questioned by residents community (companies, foundations, associations and so on) or fellow agency government . One form of state administrative dispute in the field of taxation is an objection dispute at the Directorate General of Taxes, an objection dispute occurs against a tax assessment letter submitted by the Directorate General of Taxes to the taxpayer.

Object could filed to material or content from decree taxes , that is on total make a loss based on provision legislation taxation , amount magnitude taxes , or cutting or collection tax , referred to , referred to a in Article 25 paragraph (1) Law No. 6 of 1983 as has changed final with Law No. 28 of 2007 concerning Provision General and Procedure Taxation is one object must filed to one type taxes and one tax period or year tax . Next Director General Tax will issue a Decision Letter of Objection , accordingly provision Article 26 Law No. 6 of 1983 as has changed final with Law No. 28 Year 2007 about Provision General and Procedure Taxation . Article 27 paragraph (1) Law no . 6 of 1983 as has changed final with Law No. 28 of 2007 concerning Provision General and Procedure Taxation which states : " Compulsory Tax could submit appeal only to the judiciary tax on the Objection Decision Letter as meant in Article 26 paragraph (1)". Justice The tax in question here is Court Tax as

arranged in Article 2 Law No. 14 of 2002 concerning Court Tax . As results appeals or lawsuit dispute tax in court Tax good on formal examination of the dispute as well as disputed materials so Court Tax will publish verdict , however decision Court Tax this no characteristic erga omnes where decision this only apply for adjudicated dispute in one verdict . Court tax is court level first and level final in settlement on dispute tax , because that decision Court Tax Becomes decision end have strength law permanent and immediately can be implemented or executed as Article 86 of Law No. 14 of 2002 concerning Court Tax which states : " Decision Court Tax live could implemented with no need again decision authorized official except regulation legislation arrange other .". often there are obstacles in the implementation of execution due to the discovery of a typo/miscalculation in the court decision so that the Director General of Taxes has to postpone implementation until the decision is rectified.

The problems discussed in this paper are how the Director General of Taxes acts against court decisions in which there are typographical errors/miscalculations and how legal certainty is for taxpayers regarding court decisions in which there are typographical errors/miscalculations. The purpose of this study is to analyze the actions of the Director General of Taxes against court decisions in which there are typographical errors/miscalculations and to analyze legal certainty for taxpayers regarding decisions in which there are typographical errors/miscalculations.

To anticipate plagiarism and ensure the authenticity of writing, the authors include several similar studies that have been researched by previous researchers, namely research by Erna Sulistiawati, University Diponegoro , Semarang, with title Overview Juridical To Execution Decision Republican Supreme Court Indonesia which has permanent legal force over the object Same Dispute with Different Decisions , what distinguishes the author's research is that the author's research discusses the actions of the director general of taxes on court decisions in which there are typographical errors /miscalculations which are obstacles in the implementation of later executions and how legal certainty is for taxpayers because they have not been able to carry out executions. Further research by Machmud M. Serbo (2005) , University of Indonesia 2005 with title effectiveness Objections and Internal Appeals Effort Completion Dispute Tax . The difference with the author's research is that the author does not discuss the effectiveness of objections and appeals, but the author focuses more on court decisions in which there are typographical errors/miscalculations that become obstacles in execution.



The introduction is built by four matter main , namely gap analysis ; exists statement novelty/ value novelty ; exists aim research / writing / hypothesis ; and exist state of art (research / studies before) .

METHOD

The research method used in scientific writing is normative juridical research method . The approach used is the analytical approach and the statutory approach . data type used in this research is secondary data and sources of legal materials used, namely, primary data consisting of laws, secondary data consisting of books and journals related to customs, taxation, government administration, state administration and data law dictionaries tertiary. From the data that has been collected, processing, analysis and construction of data are carried out in a normative qualitative manner

RESULTS AND DISCUSSION

Results and discussion served in one composed part from a number of paragraph. this section is the most dominant part from whole articles , that is 60%. To facilitate understanding and reading, the research results are described first, followed by the discussion section. The results and discussion subtitles are presented separately.

Results

Based on the provisions of the Circular Letter of the Director General of Taxes No. SE-41/PJ/2014 Concerning Procedures for Handling and Implementation of Appeal Decisions, Lawsuit Decisions and Judicial Review Decisions , actions taken by the Director General of Taxes in the case of a decision which includes a typo/or miscalculation, namely making a request letter to hold an examination hearing with expedited proceedings as stipulated in Article 66 paragraph (1) letter c of Law Number 14 of 2002 concerning the Tax Court states that " examination by rapid proceedings is carried out on non-compliance with one of the provisions as referred to in Article 84 paragraph (1) or a typo and/or miscalculation in the decision of the Tax Court" ;

Observing the provisions and examples of typo cases above, it can be understood that decisions that experience typographical errors still have validity because decisions that contain typographical errors/or miscalculations are not considered invalid decisions, but those decisions are only incorrect regarding the implementation of the decision and from a procedural point of view. the decision is in accordance with the procedure for preparing a decision as quoted from the decision that the author has described in the previous chapter, it's just that the decision does not have executorial power. In terms of the implementation of execution as the theory of execution put forward by R.

Subekti (2005) that execution is the implementation of a decision that cannot be changed and obeyed voluntarily by the litigants , thus in the meaning of the word execution already implies the losing party whether they like it or not willing to voluntarily obey the judge's decision a . It is different from a decision which contains a typo/or miscalculation so that the Director General of Taxes as a party fulfilling the execution obligation must postpone it until there is a corrective decision from the court. Yahya Harah ap (2022) also disclosed decisions that do not have executorial power , which explains that typo decisions can still be tolerated for errors other than the main case, but if they are included in the main case, the decision is invalidated . Furthermore, according to Yahya Harahap, if the decision handed down does not follow the formulation structure outlined, then the decision is invalid and must be annulled. The intended formulation of the Supreme Court Decision consists of identity, posita, exception/reconvention, first level court decision decision, appeal level court decision, reasons for cassation, legal considerations, and decision.

Article 82 paragraph (2), paragraph (3) and paragraph (4) explain that related rectification decision court tax , the mechanism that should be passed that is stage quick trial _ to mistake form fix error write and/ or error count , p the implemented in period time 30 (three twenty) days since mistake meant is known or since one application party accepted . Article 84 paragraph (4), paragraph (5), and paragraph (6) explain that decision court tax must signed by the judge who decided and the Registrar . If the Chief Judge or a single judge who tried unable sign , then decision signed by the chairman with state reason the absence of the Chief Judge or single Judge . If the Member Judge unable signed , verdict signed by the Chief Judge with state reason absence of member judges meant .

Based on provision the could seen that mechanism quick trial related rectification need quite a long time so matter this raises uncertainty law to decision court taxes that have strength law permanent even though should verdict that has been strength law permanent have strength executive and can carried out by the parties , such matter no in line with understanding certainty law put forward by Gustav Radbruch ie certainty because law that is ensure justice and stay useful . Justice for must tax and fixed useful for must other taxes if found similar case.

Based on example case on type error write in matter this is about magnitude the amount of tax payable , amount tax that can credited , amount still tax must paid to cause second split party in matter this Must Tax and Director General Tax no could determine magnitude rights and obligations that will be executed in the decision such , so no there is certainty law on judgments Court Tax meant consequence exists error write and error count .



Because of the verdict about dispute tax is concerns required amount of money paid to the country, no should paid or must returned to Must Tax so from case on there is loss materially for Must Tax where if We analysis so based on provision Article 88 paragraph (2) of the Law Court Taxes , then decision Court Tax the must implemented in 30 days time since decision accepted by the parties , however because exists error write then the implementation process the decision (execution) . delayed until publication decision correction by the Court Tax .

DISCUSSION

Decision Court Tax

Decision court tax is decision end and have strength law stay . Disputing parties could submit review Back up decision court tax to Supreme Court. Court tax could emit interlocutory decision lawsuit regarding with interested application as meant in Article 43 paragraph (2) of the Court Law tax . Decision court tax taken based on results evaluation evidence , and based on regulation legislation related taxation _ as well as based on judge's belief . The judge 's conviction is based on judgment proof and fit with regulation legislation taxation . In matter inspection done by the assembly , the verdict court tax based on deliberations led by the chief judge and if in discussion no could achieved agreement , verdict taken with voice most . Opinion of member judges who do not agreed with decision said , stated in decision court tax . Inclusion the opinions of the judges of different members in decision court tax , intended so that the parties to the dispute could knowing conditions and considerations of member judges in assembly .

According to Malimar (2012) " Verdicts and Decisions" is two term law with different meaning . Decision is from Dutch term " Beslissing " whereas decision is Translate from term " beschikking " according to dictionary J. Koenen -JB Drewes " Hand Woorden Boek der Nederlandse Taal" . Jimmy Assiddiqly say that in the field power justice or justice that is special in connection with function mainly in activity Justice only known two type usual terms used , ie decisions and determinations . Decision according to Jimmy Assiddiqly is decision end on results inspection to case . Contents of the verdict court always contains one from three possibility amar , that is grant , refuse , and no could accepted , meanwhile determination is related administrative decisions with the judicial process on matter being examined . All characteristic decision administrative justice normal called " determination "

In his book , Djazoeli Sadani and friends (2008) have give explanation more carry on about types one verdict among them there is decision court tax form fix error write / error count . Decision correcting tax error write / error count only for for decision court tax

and sheer for fix error writing and / or miscalculations in decision the . Rectification done because exists application from one disputing parties or known from other reason than exists application , throughout that other reason known by the Chairman Court Tax . As decision end and have strength law fixed , then decision court tax no could filed lawsuit to Justice General , State Administrative Court, or Court of Justice other , except decision in the form of " no could accepted " because dispute no is competence absolute (authority) .

Implementation Decision Court Tax

Decision court tax characteristic executorial , that is live could implemented with no need again decision authorized official except regulation legislation set another or decision decision meant cause advantages payment taxes , for example decision court tax cause tax income Becomes more paid , in matter this Head of Service Office Tax still must issue an Order Pay advantages tax required must tax for could obtain advantages meant .

Decision court tax no have principle decision court that has strength law tie as " erga omnes" though is dispute law public , verdict Court Tax no apply general for who course , but only limited to what is disputed just so that easy very happened in Court Tax something substance the same dispute checked and disconnected over and over again . Different with in the United States where decision court the tax change practices ever taxation disputed and decided in court Taxes, incl change something Policy administration tax there that is live or no live has corrected by the Court Taxes , so no occur repetition if decision court tax grant Partial or whole Appeal, excess payment tax returned with plus reward flower by 2% (two percent) a month for period a maximum of 24 (two twenty four) months in accordance provision regulation legislation applicable taxation . Copy of judgment or A copy of the determination Court Tax sent to the parties with letter by the Secretary in period time 30 (three twenty) days since date decision court tax pronounced , or in period within 7 (seven) days since date interlocutory decision pronounced . Decision court tax must carried out by the authorized official in period time 30 (three twenty) days counted since date accepted verdict . Officials who don't carry out decision court tax in period time as specified , then will imposed penalty in accordance with provision current employment .

Besides discuss about procedure implementation decision , there is also a term non-executable or execution that is not could executed , As for who became reason execution no could run among other things, property riches executed no Yes , verdict characteristic declarator , item object execution be on the side third , execution to the tenant , the item you want executed guaranteed to party third , the desired



land executed no clear limits, changes in land status changed. Becomes state property, goods object execution is at overseas, two mutually exclusive decisions different, and execution to treasure riches together.

As a crown, the Judge's decision should be avoid error typo type, though error that is error type no influence meaning. because that if error that is "typo", then there is mechanism repair. In check and disconnect case, the judge is responsible answer on determinations and decisions he made. In Indonesian court, correction to mistake editorial decision called with "renvoi". The renvoi procedure is carried out with cross out editorial wrong decision then replaced with correct editorial. On the left margin wrong decision the then given description about exists repair and signed by the Panel of Judges. In known renvoi practice a number of term like legitimate cross out replace, legal cross out added, and others.

One method repair verdict abroad is corrigendum method in Australia. The method used for repair decision is with include sheet separated from corrected verdict and let Wrong decision sheet origin. Next the contents of the corrigendum are sent to court submitter for continued to the parties without need returned existing decisions error type, Process corrigendum on the verdict electronics more easy done, because Live typed repeat and follow explanation exists repair. The corrigendum mechanism in Australian courts can quick done without wait the verdict returned to FederalCourtesy. Panel of Judges in the Federal Court can quick do error with sheet separately stated has occur mistake.

In decision Court Tax there is matter specific cause decision the no could immediately in execution, ie because there is error write in decision the so that cause no could confirmed object intended tax, actual value disputed, the amount of the tax owed, amount tax that can credited, amount still tax must paid to the country or subject tax referred to in the decision related so that cause second split party no could determine with certain about limitation rights and obligations ordered by the decision Court Tax.

CONCLUSION

Based on discussion and analysis as has discussed before, Actions taken by the Director General of Taxes regarding decisions in which there are typographical errors/or miscalculations are regulated in Director General of Taxes Circular Letter No. SE-41/PJ/2014 Concerning Procedures for Handling and Implementation of Appeal Decisions, Lawsuit Decisions and Judicial Review Decisions, namely against tax court decisions prior to execution. Legal certainty for taxpayers is delayed due to the inability to carry out court decisions until there is a quick trial regarding

corrections and this requires quite a long time. Decisions that have legal force should still have executive power and can be implemented by the parties. The absence of executorial powers results in a loss of legal certainty regarding the implementation of decisions.

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