

Public Prosecutor's Cassation Submission Criminal Case of Issuing Tax Invoices that are not in Accordance with The Transaction

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Abstract. Taxation is a crucial source of state revenue for public development. Public funds are derived from the State Income and Consumption Budget (APBN), including oil, gas, taxes, non-tax revenues, and foreign loans, with taxes being the main source. Tax crimes, such as issuing invalid value-added tax invoices, cause significant financial losses. Many in Indonesia evade taxes using false invoices. Article 39A of Regulation Number 28 of 2007, which amends Regulation Number 6 of 1983, addresses these crimes. This study examines the reasons behind the appeal regarding false tax invoices and the judge's decision in case number 7322K/Pid.Sus/2022, which found the defendant guilty. The issue arose because the Public Prosecutor disagreed with the initial ruling that the defendant was not proven guilty as charged.

Keywords: Crime, Tax, Cassation.

1 Introduction

Indonesia is a nation in view of regulation, so every human or local area movement should be founded on existing guidelines and standards that apply in the public eye. Regulation can't be isolated from human existence since regulation is a standard to direct human way of behaving in everyday life. Law, in its function of regulating all aspects of national and state life, can make maximum contributions if legal officials and all levels of society submit and obey the law. Taxes are a very important source of state income for the implementation and implementation of national development. The funds needed for national development can be identified from the State Revenue and Expenditure Budget (APBN) which comes from oil and gas, taxes, non-tax revenues and foreign loans. Currently, it is very clear that the main source of state revenue is taxes[1].

The income from taxpayers is a significant contribution to state income and has broad significance for state development. This should be a concern for the government, namely efforts to increase public awareness of paying taxes.

According to Article 1 number 1 in Regulation Number 28 of 2007, Third Revision to Regulation Number 6 of 1983 concerning General Arrangements and Duty Techniques, "Tax is a mandatory contribution to the state owed by an individual or entity that is coercive based on the Law, without receiving direct compensation and used for state needs for the greatest prosperity of the people.[2]"

Tax reform itself began in early 1984. The change was completed by changing the duty framework from the idea of an Authority Evaluation Framework to a Self Evaluation Framework. The Authority Evaluation Framework is an expense assortment framework that gives the public authority the position to decide how much duty owed by citizens. The Self Evaluation Framework gives citizens the position to compute, pay and report the expense owed.

With the self-appraisal framework, the public authority needs to give full certainty to general society, particularly citizens, to do their own expense commitments by computing, keeping, and filling in and reporting the amount of their own tax according to the calculations and data held by the taxpayer. With this self-assessment system, the government hopes that taxpayers themselves will have awareness and compliance.

2 Method

The government should apply strictness to taxpayers in collecting taxes by implementing legal provisions (law enforcement) in accordance with applicable laws. The presence of restricting legitimate power as regulation makes burdens basically constrained. On the off chance that a citizen doesn't satisfy his duty commitments, he might be liable to sanctions[3].

One way to increase taxpayer awareness is the regulation and imposition of criminal sanctions in the field of taxation. Tax crime is an important matter, especially in the context of law enforcement, which must be implemented, so that the provisions of the law can be implemented as they should, especially in fulfilling the sense of justice in society and legal certainty itself.

A crime in the field of taxation is an act that violates tax laws and regulations which results in state financial losses, the perpetrator is threatened with criminal penalties. Cases of tax crimes that are widespread in Indonesia are cases of invalid tax invoices for value added tax. In Indonesia there are still many perpetrators of tax evasion using tax invoices that are not based on the actual transaction value[4].

The provisions regarding criminal offenses against invalid tax invoices are based on Article 39A of Law Number 28 of 2007 concerning the Third Amendment to Law Number 6 of 1983 concerning General Provisions and Procedures for Taxation, which states that: Every person who intentionally:

1. Giving and additionally utilizing charge solicitations, evidence of expense assortment, confirmation of duty keeping, as well as verification of duty stores that are not in view of genuine exchanges; or
2. Given an expense receipt however has not been affirmed as an Available Business person will be condemned to detainment for at least 2 (two) years and a limit of 6 (six) years as well as a fine of no less than 2 (two) times how much duty in the duty receipt, evidence of assessment assortment, verification of duty keeping, or potentially confirmation of expense store and a greatest 6 (six) times how much assessment in the assessment receipt, evidence of duty assortment, confirmation of duty keeping, as well as confirmation of duty store[5].

One of them is the Cassation Verdict number 7322K/Pid.sus/2022 in the name of the defendant Suwarty Ningsih, Lai. Previously, the Appointed authority's choice at the Locale Court dismissed the Public Investigator's arraignment, and the Public Examiner recorded an allure, yet at the High Court level the Judge also rejected the Public Prosecutor's indictment, but

when submitting an appeal, the Public Prosecutor's indictment was accepted by the Panel of Judges who imposed a criminal sentence on the defendant for 2 years[2].

3 Results and Discussion

In the appointed authority's choice at the North Jakarta Locale Court, he dismissed the Public Examiner's arraignment on the grounds that the Public Investigator was not careful in drafting the indictment, especially the first alternative indictment which was incomplete and imperfect, resulting in the indictment being vague and unclear. Likewise with the second alternative indictment, Article 43 section (1) of Regulation No. 6 of 1983 is referenced, though Article 43 section (1) is contained in Regulation No. 28 of 2007, particularly in that regulation. Article 43 has been corrected, so the law administering the article being referred to ought to be referenced in the Public Examiner's arraignment[6].

Meanwhile, the judge's decision at the appeal level also rejected the Public Prosecutor's indictment, the Panel of Judges at the High Court agreed and confirmed the decision of the Panel of Judges at the Northern Court, which in its legal considerations had contained and explained accurately and correctly all the legal facts and reasons that were the basis for the decision. , that the Public Prosecutor's indictment No.Reg.Case PDS-14/Pid.Sus/11/2021 in the name of Suwarty Ningsih, Lai was declared inadmissible, due to the Public Prosecutor's lack of accuracy in drafting the indictment, both the first alternative indictment and the second alternative indictment. in including the articles of the law indicted and in applying the description of the qualifications of the defendant's actions, resulting in the Public Prosecutor's indictment being vague and unclear[7].

Be that as it may, in the cassation level choice, the Board of Judges conceded the cassation demand from the Public Examiner and dropped the choice of the DKI Jakarta High Court Number 57/PID.SUS/2022/PT DKI dated 22 April 2022, and proclaimed the litigant at real fault for carrying out a crook act, in particular purposely partaking in utilizing the receipt. charges that are not in view of real continuous exchanges, as in the main elective prosecution, by forcing a sentence on the respondent for 2 (two) years and a fine of Rp. 635,346,409,- (600 35 million 300 46 thousand 400 and nine rupiah) with the arrangement that in the event that the respondent doesn't pay the fine, it will be traded by detainment for 1 (one) year[8].

The cause of the problem of filing a cassation regarding the issuance of tax invoices that do not match the transaction value in the Supreme Court decision Number 7322K/Pid.Sus/2022 is that the Public Prosecutor basically disagrees in terms of stating that the Defendant has not been legally proven and is convinced that he is guilty of committing a crook go about as expressed in the prosecution. . The Public Examiner is of the assessment that the Respondent was demonstrated to have carried out a crook act infringing upon Article 39 A letter a Jo. Article 43 passage (1) Regulation no. 6 of 1983 concerning General Arrangements and Duty Methods as corrected a few times, most as of late by Regulation no. 16 of 2009 Jo. Article 64 section (1) of the Lawbreaker Code or both Article 39 passage (1) letter d Jo. Article 43 section (1) Regulation no. 6 of 1983 concerning General Arrangements and Duty Techniques as generally as of late altered by Regulation no. 16 of 2009 Jo. Article 64 passage (1) of the Lawbreaker Code as well as the public prosecutor's lack of accuracy in drafting and making the indictment, both the first alternative indictment and the second alternative indictment in mentioning and/or including the articles of the law being charged and in applying the description of the qualifications of the defendant's actions, resulting in The Public Prosecutor's indictment was vague and unclear, so

that the Panel of Judges could not accept the Public Prosecutor's indictment and could not impose a crime against Suwarty Ningsih Lai[9].

The judge's considerations in declaring the defendant guilty in the Cassation Decision in Special Crime Case Number 7322K/Pid.Sus/2022 concerning the criminal act of issuing and/or using tax invoices were not based on actual transactions carried out by Suwarty Ningsih (56 years), director of PT[3]. Creative Jaya Sentosa which is registered as a taxpayer and taxable entrepreneur. As written in Article 254 in conjunction with Article 255 of the Criminal Procedure Code, it is explained that the Supreme Court in examining a cassation petition has met the provisions of Article 245, Article 246 and Article 247, the Supreme Court can grant or reject a cassation petition and in the event that a decision is canceled because legal regulations are not applied or If it is not implemented properly, the Supreme Court will try the case itself[10]. The Supreme Court has the right to reject or grant the cassation petition and the Supreme Court has the right to try the case itself, if the decision is annulled because the legal regulations are not applied or are applied improperly[11]. The basis for the Supreme Court's decision in this case was to grant the cassation request and cancel the District Court's decision and try the case itself. From this it can be seen that in his considerations the Judge used reference 253 paragraph (1) letter a of the Criminal Procedure Code and in resolving this case the Judge used the reference Article 254 in conjunction with Article 255 paragraph (1) of the Criminal Procedure Code, which was further confirmed in Article 256 of the Criminal Procedure Code[12].

4 Conclusion

The North Jakarta District Court and the High Court both dismissed the Public Prosecutor's indictment against Suwarty Ningsih due to inaccuracies and ambiguity in the charges. The indictment failed to correctly reference the applicable legal provisions and was considered incomplete and unclear. Both courts concluded that the lack of precision in drafting the indictment made it inadmissible. However, at the cassation level, the Supreme Court granted the Public Prosecutor's appeal, overturning the previous decisions and finding the defendant guilty of using tax invoices not based on actual transactions. The Supreme Court's decision emphasized the legal principle that when a decision is annulled due to improper application of legal regulations, the Supreme Court has the authority to try the case itself. The Court sentenced the defendant to two years imprisonment and imposed a substantial fine, underscoring the importance of accuracy and clarity in legal indictments.

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