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Ultimum Remedium to Increase Investor Interest in The Enforcement of Tax Criminal Sanctions in Indonesia. Case study PT VCI, Jakarta

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Abstract. Tax is the main source of state financing in Indonesia. To facilitate the implementation of the task of collecting state money, the Directorate General of Taxes requires easy, cheap and efficient ways. One of the efficient, easy and cheap ways is also applied in the handling of tax crimes. Research in this paper is legal research that is precritative and applied. The source of the material used is the primary legal material and the secondary legal material, by means of the study of the library/document, techniques a interconnected legal analysis to be drawn conclusions . The purpose of this research is to find out other legal efforts that can be taken by taxpayers to resolve tax criminal violations ,without going through a trial in court.. In this paper, the author will review the case of PT VCI and outline the legal basis that can be used to make administrative settlements for similar cases that have not been decided by the Judiciary. The result of this research has been known, that the submission of cassation legal efforts by the public prosecutor has been granted by the Supreme Court and the Supreme Court has sentenced the Director of PT VCI, Jakarta to 2 years imprisonment and paid a fine of 3 times the state's losses.
Keywords Ultimum remedium, Increase investor interest, enforcement of tax criminal, tax criminal sanctions

1. Introduction

The purpose of law enforcement is not to apply the rules, but rather to achieve order, peace, peace in a harmonious and just society. The various reasons for this assumption are rooted in cul- tural dispositions and other factors. Experts such as officials based at the international anti-corruption NGO Transparency International claim that criminals abuse the Dubai financial market to launder in- criminated funds, evade domestic tax regulations, or circumvent sanc-tions (Transparency} peranannya (Teichmann et al., 2020) Directorate General of Taxation As an institution tasked with securing state revenues from the sector, whose role reaches 80% in the State Budget is authorized to take various measures orefforts to secure the target of state revenue from the tax sector. The steps taken by the tax apparatus are regulated in the Law on General Provisions of Taxation (UU KUP), The Income Tax Law (PPh Law), the Value Added Tax Law (PPN Law) and other derivative rule rules such as the Substitute Government Regulation Law (Perpu), Government Regulation (PP), The Decree of the Minister of Finance (KMK) and others. Such efforts include appeals, examinations, billing, collection by force mail, account blocking, seizure of assets, blocking to criminal efforts.

Criminal Settlement tax takes time and cost from both parties. From the taxpayer side in the form of prison sentences and the length of the process of resolving the case that can take several years. From the Directorate General of Taxation, the handling of criminal taxes requires the allocation of functional human resources investigators to handle and the process requires a lot of energy.. To solve the problem, a cheaper, efficient and fulfilling way of justice is needed for both parties.. To reduce the waste of energy, is there any other solution that can be taken by taxpayers who are proven to commit tax crimes in Indonesia without being subject to sanctions of confinement?

Case began “the DP” in 2012 and 2013 reported the VAT period SPT that has been engineered to the Tax Service Office Pratama Jakarta Pasar Minggu, while the DP is considered to violate Article 39 paragraph.

(1) letter a jo Article 43 paragraph (1) Law of the Republic of Indonesia Number 6 of 1983 concerning General Provisions and Procedures of Taxation as amended by Law Of the Republic of Indonesia Number 16 of 2009 concerning General Provisions and Procedures of Taxation with state losses in 2012 amounting to 2M and in 2013 amounting to 15.8M. Accused of tax evasion, Director of PT VCI Indonesia was sentenced to two years in prison, after being convicted of violating Article 39 Paragraphs (1) Letters c and d, Letter i jo Article 43 of Law Number 6 of 1983 concerning general provisions and procedures of Taxation, in this case was charged subsidair, it is known that the

defendants are prosecuted separately, that together have committed criminal acts in the field of taxation in 2012 sampi 2013 at the Office of The Tax Service Office of South Jakarta, charged with not criminal acts by submitting a vat spt notification letter and delivering a letter whose contents are incorrect, so that it has harmed the State about Rp17.8 billion.

The South Jakarta District Court acquitted the defendant of all charges alleged by the Public Prosecutor in response to the decision of the South Jakarta District Court, the Public Prosecutor filed a Cassation Legal Action for expressing disagreement with the verdict No. 8XX/ Pid.Sus / 2015 / PN. Jkt.Sel dated May 16, 2016 on the grounds that the judex factie verdict of the South Jakarta District Court that acquitted the Defendant of the lawsuit is incorrect and wrongly applied the law, judex factie verdict is not made based on the correct and proper legal considerations so it is not in accordance with the applicable legal provisions, not in accordance with the evidence and legal facts revealed at the trial.

This case was finally decided by Cassation through the decision of the Supreme Court number 2628 K / Pid.Sus / 2016 which in essence granted the application for cassation from the Cassation Applicant / Public Prosecutor at the South Jakarta State Prosecutor. Annulled the decision of the South Jakarta District CourtNo.8 XX/Pid.Sus/2015/PN. Jkt.Sel dated May 16, 2016. stated that defendant DP is legally and convincingly guilty of intentionally issuing and/or using tax invoices, proof of tax collection, evidence of tax withholding, and/or proof of tax deposits that are not based on actual transactions conducted on an ongoing basis". Criminal charges against the accused in the form of imprisonment for 2 (two) years and a fine of three times Rp. 17,962,805,756.00 (seventeen billion nine hundred and sixty-two million eight hundred and five thousand seven hundred and fifty-six rupiah) = Rp.53,888,417,268.00 (fifty-three billion eight hundred and sixty-eight million four hundred and seventeen thousand two hundred and sixty-eight rupiah).

If the fine is not paid then the defendant's property is confiscated by the Prosecutor for auction and if it is insufficient then the defendant is sentenced to 8 (eight) months imprisonment. Based on the case, the author wants to discuss the settlement of tax crimes administratively.

2. Materials and Methods

The research method used in this article is a normative legal research method that is carried out by describing the existing problems, it needs to be further discussed through research based on legal theory, then discussed in accordance with the applicable laws and regulations. This study uses legal methods related to taxation and analysis of legal concepts to understand the concept of clear rules and the principle of final exemption from criminal law. The collection of legal materials is carried out through library technology (library research) which is carried out through a card system. The analysis of legal materials is based on legal reasons using descriptive techniques and argumentation techniques.

3. Discussion

The essence of criminal law enforcement is the realization lof order, peace, tranquility in a harmonious and just society. . To enforce the law, we know several methods that are commonly applied, namely the application of retributive laws and restitutive law enforcement. Law enforcement with a retributive and restitutive model takes time and costs a lot of time.. Therefore, a legal breakthrough is needed to resolve the dispute through the restoration of justice.. In this model when the two sides have reconciled, then the criminal proceedings are stopped and considered completed..

Restoration of justice in the Directorate General of Taxation has been accommodated in the Law on General Provisions of Taxation and the rules of derivative rules. The rules are as follows: The legal basis for administrative settlement is stipulated in article 8 paragraph (4) and paragraph (5) of the KUP Law in the rule that taxpayers who are proven to commit criminal acts can disclose their untruths and pay a fine increase of 50%. Terms of disclosure made it is correct ,and the fine has been paid, then the tax penalty on the taxpayer is stopped..

If the data, information or report has been followed up with a preliminary evidence examination, namely an examination in order to find further evidence related to criminal violations committed by the taxpayer, the examination can be stopped by the way the taxpayer conducts his own disclosure of the untruth of filling out the notification letter submitted by paying a fine of 150%. The terms have not been investigated and the disclosure has been correct. This is stipulated in article 8 paragraph (3) of the KUP Law

Although, the initial evidence examination action has been raised to the investigation, the investigation can be stopped on the condition that the taxpayer has paid off tax debts that are not or are not paid or that should not be returned and coupled with administrative sanctions in the form of fines of 4 (four) times the amount of tax that is not or is not paid, or that should not be returned. This is stipulated in article 44B of the

The first stage, when it is known that the taxpayer commits a criminal act of taxation, then the taxpayer will be encouraged or corrected to correct the SPT with the power of article 8 paragraph 4 and paragraph 5 of the General Provisions of Taxation Law and pay a fine increase of 50% to solve the case in this early stage, PT

VCI must pay Rp 17,962,805,756 + (50% X Rp17,962,805,756) = Rp 26,944,208,634, 00.

Phase two,, If the taxpayer does not make a settlement in the first stage, then the Directorate General of Taxation will conduct an examination of the preliminary evidence.. This examination is carried out to find 2 evidences that corroborate the occurrence of criminal acts of taxation.. Although the examination ikan of preliminary evidence has been carried out but has not been investigated, taxpayers can the handling of criminal tax violations with the power of article 8 paragraph 3 of the General Provisions Of Taxation Act and pay a fine increase of 150% to solve the case at this early stage ,PT VCI must pay Rp 17,962,805,756 + (150% X Rp 17,962,805,756) = Rp 44,907,014,390.00.

Phase three, if the taxpayer does not make a settlement in the second phase, then the Directorate General of Taxation will increase the examination of preliminary evidence into the investigation. Even though the investigation has been carried out, taxpayers can stop the handling of criminal tax violations with the power of article 44 B of the General Provisions of Taxation Act and pay a fine increase of 4 times. to solve the case in this early stage, PT VCI must pay Rp 17,962,805,756 + (4 X Rp 17,962,805,756) = Rp 89,814,028,780.00.

3. Conclusion

The enforcement action taken by directorate of Taxation against PT VCI, is a last resort after taxpayers are not willing to solve their criminal problems in the early stages. Criminal tax violations in Indonesia can be resolved administratively by paying fines in accordance with the provisions stipulated in the Taxation Law. Tax law is drafted to provide legal certainty and to facilitate fiscus in the implementation of the task of raising money for the state. Tax is mandatory dues that in its implementation can be imposed.

A good understanding of tax regulations can spare taxpayers the burden of some sanctions and fines. Tax policy in Indonesia provides friendly, fast, efficient, and effective services to support the smooth running of business in Indonesia. Such fast service, one of them in terms of handling criminal acts in the field of taxation. The Law on General Provisions and Taxation in Indonesia allows taxpayers to resolve criminal violations administratively.

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