



TAX COURT DECISION ON THE PRIMARY DISPUTE OF EXPORT VALUE-ADDED TAX BASE

Putusan Pengadilan Pajak pada Pokok Sengketa Dasar Pengenaan Pajak PPN Ekspor

Hastanti Agustin Rahayu^{1*}, Neni Pancawati², Syarifudin³ 

¹Faculty of Islamic Economics and Business, State Islamic University of Sunan Ampel

²Vocational Collage, Gadjah Mada University

³Postgraduate of State Islamic University of Sunan Ampel

*corresponding author: hastanti.rahayu@uinsby.ac.id

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ABSTRACT

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This study analyzes the content of the tax court decision on the primary dispute on the imposition of the Export VAT tax. The method used is a qualitative content analysis method. The research data consists of 17 (seventeen) minutes of tax court decisions from the 2017 decision year with two main categories of disputes, namely corrections to the Export VAT base for foreign currencies and corrections to the Export VAT base for affiliated transactions. The result of the decision of the two categories is to maintain the tax authorities' correction. In the first dispute, the decision was based on the concept of substance over form and the VAT Law, Export VAT base is calculated at the PMK exchange rate based on the submission of BKP or JKP. The decision is based on the concept of matching data, state revenue and moral hazard in presenting gross turnover. The decision on the second main dispute category is based on the presentation of the comparison company data in the Transfer Pricing Document with the OECD Transfer Pricing Guideline and the arm's length principle. Comparability analysis is an adverse selection category and has complexity in transfer pricing documents. The Tax Court Judge's decision is following Article 7 of Law no. 14/2002.

Kata Kunci: *DPP PPN Ekspor, Kurs Mata Uang Asing, Substance Over Form, Transaksi Afiliasi, Transfer Pricing*

ABSTRAK


Penelitian ini menganalisis isi putusan pengadilan pajak pada pokok sengketa DPP PPN Ekspor. Metode yang digunakan adalah metode analisis isi kualitatif. Data penelitian terdiri dari 17 risalah putusan pengadilan pajak pada tahun putusan 2017 dengan dua kategori

pokok sengketa yaitu koreksi DPP PPN Ekspor mata uang asing dan koreksi DPP PPN Ekspor transaksi afiliasi. Hasil putusan kedua kategori adalah mempertahankan koreksi otoritas pajak. Pada pokok sengketa pertama, putusan didasarkan konsep *substance over form* dan UU PPN, DPP PPN dihitung dengan kurs PMK berdasarkan penyerahan BKP atau JKP. Putusan sesuai konsep data *matching*, penerimaan negara dan moral *hazard* dalam penyajian peredaran bruto. Putusan kategori pokok sengketa kedua didasarkan penyajian data perusahaan pembanding pada *Transfer Pricing Document* dengan OECD *Transfer Pricing Guideline* dan *arm's length principle*. Analisis kesebandingan merupakan kategori seleksi *adverse* dan memiliki kompleksitas pada dokumen transfer *pricing*. Putusan Hakim Pengadilan Pajak sudah sesuai dengan Pasal 7 UU No. 14/2002.

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1. Introduction

Value Added Tax (VAT) is a large tax revenue after income tax. VAT revenue in 2020 amounted to 448.39 trillion or 88.35% of the target in 2020. In which, VAT revenue in 2020 decreased by 15.65% from 2019. According to the Directorate General of Taxes, the efficiency of Indonesia's VAT was 63.58% of the total VAT that should have been collected. This is due to a variety of factors, including a high percentage of VAT that is exempted and uncollected, resulting in distortions and imbalances in the contribution of the business sector to GDP and VAT DN. Furthermore, the single VAT rate is lower than the global average of 15.4%. This is since the single VAT rate is still regarded as being less representational of fairness. In terms of VAT collection, the system is generally simple and effective, which is commensurate with the size of the economy (Keen & Lockwood, 2006). Several countries, however, face the threat of tax revenue targets, one of which is the number of serious tax cases involving tax disputes (Thuronyi & Espejo, 2013).

Disputes are widespread in any society, regardless of time, place, social tradition, or level of development, and are a characteristic of modern tax systems worldwide (Tran-Nam, 2016). A tax dispute occurs when a taxpayer disagrees with the tax office's view of the taxpayer's obligations or rights. Moreover, the level of complexity of laws and administrative provisions increases the chance of tax disputes (Mayasari & Gumelar, 2021).

Disputes are conflicts between different legal, accounting, and economic views in implementing the framework of thought (Djarmiko, 2016). Tax disputes include tax appeals and tax claims through the tax court (Armando & Rosdiana, 2019), where tax appeals and tax claims are the *ultimum remedium* in tax justice. Data on the Number of Tax Dispute Files by Appellant

or Defendant in 2014-2020 according to the Secretariat of the Tax Court of the Ministry of Finance Indonesia, the number of files resulting from the decision of the Director-General of Taxes according to the appellant or defendant during 2015 to 2017 has decreased. Meanwhile, from 2017 to 2020 there was an increase in the number of tax dispute files. Where in 2020 is the highest number of dispute files for seven years. Tax disputes to a certain extent are a natural part of a tax system based on the rule of law (Thuronyi & Espejo, 2013).

Factors that influence the number of tax disputes include tax laws that are complicated or out of class which can lead to higher tax disputes (Thuronyi & Espejo, 2013). According to Mayanja, Mahazi, and Daniel 2020, tax disputes can occur, among others, over irrational tax violations, tax calculation errors, tax procedures errors, misinterpretation of tax law, unjustified tax sanctions, irrational tax debt determination, the ambiguity of tax regulations, and other mistakes made by the tax office. Tax disputes consist of four categories of tax disputes, including complaints, disputes as to facts or application of tax law by a taxpayer as matters are being assessed, objections to reviewable rules, and objections to assessments. Complaint and dispute as to facts or application of tax law by a taxpayer as matters are being assessed is a type of tax dispute in the statutory rights aspect that results in litigation. Meanwhile, objections to reviewable rules and objections to assessments are types of tax disputes in the administrative due process aspect (Highfield et al., 2018).

Meanwhile, in Indonesia, the results of tax dispute resolution decisions include revocation, refusal, adding taxes to be paid, partially grant, fully grant, and cancel. From Figure 2, fully grant results in the greatest number of dispute resolution filings. In 2017, the results of the decision to fully grant decreased from 2016 and increased the following year. The data is processed from tax treatise decisions during 2017 based on data published in the Secretariat of the Tax Court of the Ministry of Finance based on the subject matter of the appeal dispute, a total of 846 tax court decisions with the subject matter of the Value Added Tax dispute. Of which, 51.7% or 435 subject matter is a tax dispute on the VAT base (DPP PPN) of goods and services. The development of international trade on exports from 2016 to 2019 experienced growth. The impact of the COVID pandemic in 2020 has decreased and began to grow in 2021.

VAT base disputes on exports in 2017 amounted to 4% of the VAT base disputes. Where the results of the tax court's decision were rejected by 61%. The basis in tax disputes is the tax laws and regulations and their derivative implementing regulations. Legislation must meet technical requirements, systematics, choice of words or terms, as well as legal language that is clear and easy to understand. Thus, it does not cause various kinds of interpretations in its implementation. Meanwhile, in practice, regulations will never present actual conditions, so regulations require interpretation (Freedman & Macdonald, 2008). Uncertainty arises because many interpretations of tax law must be done to match the pattern of taxpayer transactions with

the rules. The interpretation of the taxpayer is often different from the tax authority so that the above uncertainty ultimately affects the tax gap (Mazur & Plumley, 2007). In the end, different interpretations between taxpayers and tax officers can lead to tax disputes up to the tax court and even the Supreme Court. Based on the above phenomenon, a more in-depth analysis of the subject matter of tax disputes based on the imposition of Export VAT on the results of tax decisions in the Indonesian Tax Court is needed.

2. Literature Review

Jansen and Meckling (1976) stated that the agency relationship is a form of cooperation between the principal and the agent. The agency relationship often creates problems between taxpayers and tax authorities in conflicts of interest. According to agency theory, there are two parties, namely the principal and the agent who interact and both often have different interests. Agency theory represents a conflict arising from the problem of information asymmetry, in which agents have more information about the company so that they tend to manipulate the company's financial statements for their own interests (Jansen & Meckling, 1976). Agency theory is the basis for the tax authorities in conducting tax audits (Pentland & Carlile, 1996). The government can ask its tax officials to audit the books of its taxpayers if there are indications of non-compliance. Where all tax officers conduct an examination of the accuracy of taxpayer reporting, but in reality, it is impossible to oversee all taxpayers in practice. So that the tax officer implements an efficient and effective tax audit strategy through a risk based tax audit, where in implementing a risk-based tax audit using data matching (Vellutini, 2011). Data matching is accomplished by comparing the data in the tax report to the rules that govern tax reporting, transaction documents that serve as the source of tax reporting, and/or other relevant information about the transactions reported in the tax report.

Stewardship theory, as a form of corporate management responsibility, this theory views that management can behave both for the public interest and in general and shareholders in particular. Maximizing the utility of principles and management can help an organization achieve success. Stewardship theory assumes a strong relationship between the success of organizational goals and principal satisfaction. An important assumption of stewardship is that managers shape their goals to match the principal's goals. Stewardship theory describes the relationship between the government (steward) as the manager of state revenue in the form of taxes and the people (principal) as the subject of state revenue sources. Stewardship theory in taxation is reflected in the relationship between the people and the government in collecting taxes. The people's contribution to the state is in the form of tax payments that will be used for the prosperity of the people. The people are trusted to calculate their own taxes owed and

deposit them to the state. Taxes that have been paid by the state will be used to succeed the state's goals to achieve people's prosperity.

Information asymmetry theory, management as agent and owner of capital as principal have different completeness of information. Information asymmetry involves three things, including adverse selection, moral hazard and cost monitoring (Bebczuk & Bebczuk, 2003). Adverse selection studies how choices are made because of the lack of information that decision makers have when making decisions. Moral hazard is an action that is done intentionally in order to get what you want. The party who gets it hides certain things on purpose. Cost monitoring relates to the hidden actions of the borrower which is made to benefit from better information. Information asymmetry is a situation where managers have access to information on company prospects that is not owned by outsiders (Suwardjono, 2011; Prananjaya & Narsa, 2019). The existence of asymmetry between agents and principals can provide an opportunity for managers to take earnings management actions, meaning that the existence of information asymmetry is considered the cause of earnings management. The more information about the internal company owned by managers than shareholders, the managers will have a greater opportunity to carry out earnings management (Trisnayanti & Jati, 2015). The results of research conducted by Rohayati, 2020 prove that information asymmetry has a positive effect on earnings management. This means that if information asymmetry increases, earnings management will also increase. Based on the three theories above, management must have much more complete information than investors, resulting in information asymmetry so that management can act opportunistically according to interests that sometimes differ from the interests of the principal.

Tax disputes to a certain extent are a natural part of a tax system based on the rule of law (Thuronyi & Espejo, 2013). The KUP Law is an important and most important thing in explaining a bureaucracy. The KUP Law covers a large number of issues and is characterized by a complex, confusing and changing nature. The KUP Law is more formal and does not have a basic principle of administration like the material law. Many principles underlie the regulations in the KUP Law. From the tax concepts and principles that underlie the regulatory material in the KUP Law, two concepts often give rise to tax disputes in the implementation of taxes, namely the concept of substance over form during tax audits in Article 29 paragraph (2) of the KUP Law and the concept of *ultimum remedial* in Article 43A of the KUP Law.

The VAT Law has been amended five times from Law no. 8/1983, Law No.11/1994, Law No.18/2000, Law No.42/2009, Law No.2/2020, and Law No.11/2020. The basis for consideration of the third change is, among others, increasing legal certainty and justice, creating a simple taxation system, and securing state revenues so that national development can be carried out independently. VAT is a tax on the consumption of goods and services in the

customs area which is imposed in stages in each production and distribution line. The imposition of VAT is influenced by the development of business transactions and public consumption patterns which are the object of the value-added tax. Economic developments that are extremely dynamic continue to generate new business kinds and transactions. In the VAT provisions, the main concepts of consumption-based taxation that often lead to tax disputes include the concept of added value, the concept of a taxable firm, the concept of tax residence, the concept of time of supply, and the concept of place of supply. (Artemyeva et al., 2016).

The basic framework of the VAT terminology is value-added, namely, the tax levied on the added value of all transactions in the production and distribution process. Where value-added can be seen from two sides, namely in terms of value-added (wages and profits) and from the side of the difference in output minus input. The concept of a taxable firm where the tax subject is the taxpayer. VAT is neutral in its collection and should not affect the economic decisions of businesses and consumers (Lamensch, 2015). The concept of tax residence is a tax guarantor who uses the destination principle instead of the origin principle. Based on the origin principle, VAT is imposed on domestic production, regardless of where the goods and/or services are consumed (Schenk & Oldman, 2001). The destination principle imposes VAT on domestic consumption, regardless of where the goods and/or services come from. The concept of time of supply is a determinant when VAT is payable. The time of submission is regulated in Article 11 paragraph (1a) of the VAT Law which determines that VAT is payable at the time of submission of BKP. The concept of place of supply is related to the place of delivery and becomes the determinant of delivery. The examination of the place of consumption as the place where VAT is payable is very complex, difficult, and impossible to supervise by the tax authorities (Ecker, 2013).

3. Research Method

This study analyzes the minutes of the tax court's decision on the VAT base dispute on export delivery. The purpose of this research is to find out the primary points of the Export VAT base dispute between the taxpayer and the tax authority. The method used was a qualitative content analysis method with an inductive approach. The method used was a qualitative content analysis method with an inductive approach in which the definition of qualitative content analysis focuses more on visible content (Krippendorff, 2012). Understanding content analysis qualitatively begins with the subject of tax disputes. The researchers view that a tax dispute decision is not just a stand-alone tax dispute decision, but also the contents of the minutes of tax court decisions that explain aspects of tax court decisions.

To interpret the main points of tax disputes, researchers need to analyze the main decisions of tax disputes by grouping the main tax disputes on Export VAT base. Furthermore,

interpreting the opinion of taxpayers, tax authorities, and tax judges. Inductive analysis is a procedure to find a model through a detailed reading of the minutes of tax court decisions. Two criteria in conducting content analysis are reliability and validity. Reliability is the ability of a procedure to provide the same conclusions on the same data in all variations of the measurement process (Krippendorff, 2018). Meanwhile, validity relates to the ability of the coding system to measure concepts that are the focus of researchers so that they describe existing data. Trustworthiness as a basis for assessing meaning-based content analysis refers to several criteria. In general, it refers to the criteria of credibility, transferability, dependability, and confirmability (Lincoln & Guba, 1985). Credibility in this study is a descriptive explanation of the main dispute between the taxpayer and the tax authority decided by the trial judges. Transferability on the subject of tax disputes can be applied to VAT transactions related to the calculation of Export VAT DPP on foreign exchange rates and transactions with affiliates.

4. Result and Discussion

The tax authorities have used the concept of substance over form which is implicit in the Act to deal with tax avoidance transactions related to the truth of the economic substance of a transaction. Tax disputes which include tax appeals through the Tax Court are the *ultimum remedium* for justice seekers. Disputes between taxpayers and tax authorities are due to differences in legal, accounting, and economic views in implementing tax obligations. The 17 minutes of tax court decisions on the subject of Export VAT base disputes are categorized into two, namely foreign currency transactions and affiliates.

4.1. *The primary dispute of the VAT base correction over the export delivery that does not use the KMK rate*

The subject matter of the VAT base dispute over the delivery of exports that do not use the KMK exchange rate consists of 5 (five) tax court decisions. The subject matter of the dispute states that the proven value in this appeal dispute is that there are 2 (two) points of dispute that have positive corrections to the VAT base, and 3 (three) points of dispute that have negative corrections. For information, the appellant is a taxpayer and the defendant is a tax authority (*fiskus*).

The tax authority corrected the VAT base for export delivery because the taxpayer reported that the export base did not use the KMK exchange rate because the tariff imposed was 0%. With this rate, the calculation of VAT on exports does not affect the VAT payable when using the KMK exchange rate and the Bank Indonesia middle rate. Meanwhile, according to the taxpayer, following article 7 paragraph (2) of the VAT Law, it is related to the 0% VAT rate on the export of tangible taxable goods so that there is no effect on the VAT payable when using

the KMK exchange rate or the Bank Indonesia middle rate. In addition, the reason for taxpayers to avoid reconciliation between books and tax reports. The conclusion according to the Panel of Judges is that it is appropriate in accordance with Article 14 of Government Regulation No.1 of 2012 The Appellant made corrections by calculating the VAT base using the KMK exchange rate because the VAT base value should be equal to the turnover value of Corporate Income Tax. Thus, the reason for the appeal of the taxpayer cannot cancel the correction with the consideration that in the case of transactions on exports using a foreign currency, the calculation of the amount of VAT payable (tariff x base) must first be converted to rupiah currency using the exchange rate determined by Ministry of Finance applicable at the time of making the tax invoice. Thus, the tax authority's correction of the Export VAT DPP is maintained.

According to agency theory, the tax authority as the principal has performed data matching in the calculation of the VAT base on exports in the tax report in accordance with Article 7 paragraph (2) of the VAT Law which is the basis for tax reporting. So that the correction of the DPP PPN with the KMK exchange rate on the transaction document that is the source of tax reporting will be the basis for calculating the gross circulation of the taxpayer. Taxpayer gross turnover data will have an impact on the calculation of the Taxpayer's Corporate Income Tax. Based on the Stewardship theory, the tax authority as the manager of state revenue is appropriate in making corrections to the VAT base as an effort to calculate the source of state income for corporate income tax in accordance with the VAT Law. Meanwhile, based on the theory of information asymmetry, what is done by taxpayers is in the category of moral hazard. Where the actions taken by the taxpayer intentionally with consideration of the VAT rate of 0%, while the calculation of the VAT base will have an impact on the misstatement of the gross turnover of the taxpayer. The Tax Court Judge's decision is taken based on the results of the evidentiary assessment, the relevant tax laws, and regulations and the judge's conviction which is based on the evidentiary assessment and following the tax laws and regulations (Article 7 of Law No. 14/2002).

4.2. Primary Dispute of VAT Base Period Correction for related exports

The main points of the VAT tax dispute on export delivery consist of 12 (twelve) tax court decisions that relate to a dispute with one company regarding the correction of the VAT Base Period (Umboh, 2021). The subject of the dispute states that the proven value in this appeal dispute is the correction of the VAT base for consecutive tax periods from October 2010 to September 2011 for export delivery of Rp. 719,333,056,- per each period of VAT that is not approved by the appellant. The DPP VAT correction for the 12 month VAT period is the impact of the correction in business circulation with affiliates . This correction in business circulation is

related to the transfer pricing document regarding the fairness test of taxpayer transactions (Nurwati et al., 2021). For information, the appellant has a business activity that produces and sells electronic products related to the field of information technology in the form of crystal components and fluorescent lamps.

The tax authority as the defendant stated that based on the results of the objection research, the tax authority did not agree with the comparison company data in the transfer pricing documentation appellant which only used the manufacturer's search criteria (Wijaya & Widianingsih, 2020). Seharusnya ditambahkan *search criteria distribut*. In fact, the distribution search criteria should have been added. This is because the appellant company performs a manufacturing function as well as a distributor function (Alfandia, 2018).

On the other hand, the taxpayer as the applicant for the appeal states that he does not agree with the correction of the Export VAT base of the tax authority. This is because transactions carried out with affiliates have been carried out with the principle of fairness (arm's length) and are supported by transfer pricing documentation (TP Doc). Taxpayers disagree with the opinion of the tax authorities regarding the search criteria for comparative data. In which, the comparative data carried out by the taxpayer is the search criteria of the manufacturer and the review of the database and the company's website to ensure the comparability of functions in the TNMM method.

Table 4.1
Examination Results on Business Circulation and VAT Base for the 2011 Fiscal Year

Description	Annual Tax Return (Rp)	Examiner (Rp)	Correction (Rp)
Export Sales	202.636.510.704	211.268.507.380	8.631.996.676
VAT Base Period	14.974.898.742	15.694.231.798	719.333.056

Source: Decision Number PUT-80422/PP/M.XIIA/16/2017

The correction of business circulation in Corporate Income Tax for the Fiscal Year 2011 is based on transfer pricing testing of transactions made by taxpayers against companies that have affiliated relationships following Article 18 paragraph (3) of the Income Tax Law and Article 2 paragraph (1) of the VAT Law (Jafri & Mustikasari, 2018). The total correction of business circulation is divided by an average of 12 months which becomes the basis for correction of VAT base for each tax period.

Taxpayers file an appeal to the Tax Court on the objection to the tax authority's determination. The appellant has prepared a 2011 transfer pricing report prepared by Deloitte Australia using the OSIRIS database and the method used is the transactional net margin method (TNMM). The first Profit Level Indicator/PLI is the ROA ratio, while the second PLI is the operating margin. The searching step on the TP Document carried out by the taxpayer is only based on manufacturing or product. The tax authorities do not agree with the one search criteria used by the taxpayer because it is not following the characteristics of functions, assets, and

risks. On this matter, the tax authority conducted search criteria for manufacture and distribute with the Osiris database and the taxpayer agreed. Thus, the tax authority concludes that the taxpayer has approved the steps of the tax authorities in determining the comparison companies for financial analysis of comparable companies with the results of the margin ranges in table 1. The tax authorities use 8 comparison companies with the main activities of manufacturing and distributor or wholesale companies. The tax authority uses 4 years of financial data from 2008 to 2011 which aims to eliminate the possibility of an economic cycle.

Table 4.2

Range of Reasonable Margins with Data from 8 Comparison Companies					
Margin Range	Q0	Q1	Q2	Q3	Q4
Percentage	-19,28%	6,61%	8,07%	9,45%	12,15%

Source: Decision Number PUT-80422/PP/M.XIIA/16/2017

Based on the data in table 2, the percentage of reasonable operating margin is in the range of Q1 to Q3 or between 6.61% to 9.45%. The operating margin of the taxpayer is 3.8% which is below Q1, so it is not reasonable. The tax authority used Q1 of 6.61% to calculate the arm's length operating margin, so the tax authority corrected 2.81%.

On the above correction, the taxpayer responds to the above correction by eliminating 4 (four) comparison companies and adding 2 (two) comparison companies. So the total number of comparison companies is 5 (five). The tax authority provides minutes of discussion on the response of taxpayers for producing disproportionate goods, having disproportionate market segments, performing disproportionate functions, and taking risks and using assets that are not comparable to those of taxpayers. In addition, the tax authorities agreed to add one company for producing comparable goods. The tax authority does not agree (company x) with the response of the taxpayer that includes one other comparison company because the comparison company does not sell similar products. Thus, the comparison companies became 5 companies.

Taxpayers conduct a financial analysis of comparable companies with 6 comparison companies and produce a fair range of operating margins, including Q1 of -0.04%, Q2 of 2.54%, and Q3 of 5.43%. Thus, the taxpayer's operating margin of 3.8% is within a reasonable range. This proves that the appeal applicant's transaction with the affiliate is reasonable and the tax authority's correction must be canceled. However, the tax authority believes that in 2010 one company that was not approved (company x) as a comparison company in the 2010 details did not make a sale. In addition, company x has suffered continuous losses for several years, so further research needs to be done because the company that loses is not reliable to be used as a comparison company.

The tax authority tested the financial analysis of comparable companies with 5 companies, not approving company x as the comparison company.

Table 4.3
Range of Reasonable Margins with Data from 5 Comparison Companies

Margin Range	Q0	Q1	Q2	Q3	Q4
Percentage	-19,28%	5,33%	7,03%	9,01%	9,61%

Source: Decision Number PUT-80422/PP/M.XIIA/16/2017

Based on the data in table 3, the percentage of reasonable operating margin is in the range of Q1 to Q3 or between 5.33% to 9.01%. The operating margin of the taxpayer is 3.8% which is below Q1, so it is not reasonable. The tax authorities still set a reasonable operating margin (arm's length) of 6.61% because it is still within the reasonable margin range between Q1 and Q2. Thus, the tax authorities still made corrections of 2.81%.

Based on the results of the examination of the tax tribunal in the tax court on transfer pricing testing of transactions carried out by taxpayers and tax authorities. The consideration of the Panel of Judges is based on the examination of the tax audit report, audit work paper, and objection research report. Financial analysis of comparable companies between taxpayers and tax authorities produces different operating margin ranges. This is due to a dispute with one comparison company. Based on the OECD TP Guideline in points 3.63, 1.70, and 1.72, the Panel of Judges believe that following the OECD Transfer Pricing Guideline, comparative data that has suffered continuous losses for several years needs further research so that it is not reliable to be used as a comparison company (Fesenko et al., 2020). In addition, differences in product characteristics have no significant effect on the use of TNMM as long as the functions performed are the same. Based on PER 43/PJ/2010 which has been amended by PER 32/PJ/2011 on financial analysis of comparable companies that are at a reasonable operating margin (arm's length). At the appeal level, the Panel of Judges of the Tax Court decided to reject the appeal filed by the taxpayer.

According to agency theory, the tax authority as the principal has carried out the basic principle of administration in testing the fairness of transactions through transfer pricing documentation. Disputes in transfer pricing documentation are comparative data that meet the criteria of function, asset, and risk-taker character. Based on the Stewardship theory, tax authorities and taxpayers are responsible for transfer pricing documentation with the Arm's length principle. Information asymmetry theory is carried out by taxpayers and tax authorities in the category of adverse selection, which learns how to select comparative data in conducting a comparability analysis in testing affiliated and non-affiliated transactions in determining fixed methods and data regulated in the OECD Transfer Pricing Guideline. In the opinion of the tax consultant, it is possible that taxpayers and tax authorities may obtain results that differ from the fair conditions for the affiliated transactions being tested due to the complexity of some transfer pricing issues and the difficulty of interpreting and evaluating the circumstances of individual cases. The Tax Court Judge's decision is taken based on the results of the evidentiary

assessment, the relevant tax laws and regulations, and the judge's conviction which is based on the evidentiary assessment and following the tax laws and regulations (Article 7 of Law No. 14/2002).

5. Conclusion

Qualitative content analysis was carried out on 17 (seventeen) minutes of tax court decisions in the 2017 decision year. The analysis approach was carried out in an inductive qualitative content analysis with two main categories of Export VAT base disputes, namely Export VAT base corrections on foreign currencies and affiliated transactions. In the main category of dispute, Export VAT base on foreign currency maintains correction by the tax authorities. This is because, in agency theory, the tax authorities carry out the concept of data matching between the VAT base and the gross turnover of taxpayers. Stewardship theory, the tax authorities make corrections to the VAT base which will have an impact on the calculation of state revenues for corporate income tax. In the theory of information, asymmetry carried out by taxpayers in the moral hazard category in presenting the VAT base value which will result in an inaccurate presentation of gross turnover, the substance over form concept, and the VAT Law regulations in calculating the VAT base with the rupiah currency exchanged at the PMK rate according to the recognition of the BKP or JKP submission transactions. Meanwhile, the main category of the Export VAT base dispute for affiliated transactions rejects the taxpayer's application because the data of the comparison company does not comply with the OECD Transfer Pricing Guideline and does not meet the arm's length principle. According to agency theory, the tax authority as the principal has carried out the basic principle of administration in testing the fairness of transactions through transfer pricing documentation. Information asymmetry theory, which is carried out by taxpayers and tax authorities in the category of adverse selection in conducting comparability analysis. In the opinion of the tax consultant, the taxpayer and the tax authorities obtained different results from the fair conditions for the affiliated transactions being tested due to the complexity of some transfer pricing issues and the difficulty of interpreting and evaluating the circumstances of the case. The Tax Court Judge's decision is following Article 7 of Law no. 14/2002. In which, the decision is based on the results of the assessment of evidence, the relevant tax laws and regulations, and the judge's conviction which is based on the assessment of the evidence and following the tax laws and regulations.

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