

ABSTRAK

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ANALISIS YURIDIS PENERAPAN METODE TRANSFER PRICING DAN ASPEK HUBUNGAN ISTIMEWA DALAM PRINSIP KEWAJARAN DAN KELAZIMAN USAHA: STUDI KASUS PUTUSAN MAHKAMAH AGUNG NOMOR 473/B/PK/PJK/2016

(xvii + 130 halaman: 3 gambar; 10 tabel; 1 lampiran)

Penelitian ini bertujuan untuk menganalisis penerapan metode *Transfer Pricing* dan aspek hubungan istimewa dalam prinsip kewajaran dan kelaziman usaha (*arm's length principle*), dengan fokus pada sengketa pajak yang diputuskan dalam Putusan Mahkamah Agung Nomor 473/B/PK/PJK/2016. Latar belakang penelitian ini didasari oleh pentingnya sistem hukum perpajakan Indonesia, khususnya dalam mencegah praktik penghindaran pajak melalui *Transfer Pricing* yang sering dimanfaatkan oleh perusahaan multinasional untuk memindahkan laba ke yurisdiksi dengan tarif pajak rendah. Dalam kasus PT Toyota Motor Manufacturing Indonesia (TMMIN), Direktorat Jenderal Pajak (DJP) menggunakan metode perbandingan laba bruto yang tidak diatur secara eksplisit dalam peraturan perpajakan di Indonesia sebagai dasar koreksi. Sementara itu, TMMIN menggunakan metode *cost-plus*, yang dianggap lebih mencerminkan kewajaran transaksi. Perselisihan ini menunjukkan adanya perbedaan penafsiran mengenai metode yang tepat untuk mencerminkan asas kewajaran dan kelaziman usaha dalam transaksi antar pihak berelasi. Penelitian ini menggunakan metode yuridis normatif-empiris dengan pendekatan studi kasus yuridis terhadap Putusan Mahkamah Agung Nomor 473/B/PK/PJK/2016. Pendekatan empiris dilakukan melalui analisis dokumen putusan pengadilan dan data sekunder untuk memahami penerapan hukum dalam praktik. Data penelitian diperoleh dari bahan hukum primer berupa undang-undang dan putusan pengadilan, serta bahan hukum sekunder seperti jurnal, buku, dan artikel ilmiah. Metode analisis data yang digunakan adalah analisis kualitatif dengan pendekatan deduktif untuk menarik kesimpulan dari prinsip-prinsip yang bersifat umum ke penerapan yang bersifat khusus. Penerapan metode *Transfer Pricing* dalam prinsip kewajaran dan kelaziman usaha menunjukkan bahwa TMMIN menggunakan metode Cost Plus yang dianggap DJP tidak mencerminkan perbedaan pasar domestik dan ekspor serta menyebabkan laba negatif dalam transaksi ekspor. Sebaliknya, DJP menggunakan metode perbandingan laba bruto yang tidak diatur secara eksplisit dalam peraturan perpajakan di Indonesia. Hubungan istimewa merupakan elemen kunci dalam analisis harga transfer, karena prinsip kewajaran dan kelaziman usaha hanya berlaku jika hubungan ini dapat diidentifikasi dengan jelas. Peraturan perpajakan Indonesia mengatur hubungan istimewa melalui kepemilikan modal minimal 25%, pengendalian, atau hubungan keluarga. Perbandingan dengan Vietnam menunjukkan cakupan yang lebih luas, termasuk kontrol atas omset dan kekayaan intelektual, dengan ambang batas modal 20%. Akibatnya, hubungan istimewa dapat

memicu pengalihan laba, sehingga merugikan basis pajak negara berkembang. DJP dalam kasus TMMIN gagal membuktikan hubungan istimewa secara memadai, sehingga melemahkan argumen koreksi harga transfer.

Kata kunci: *Transfer Pricing*; Metode Penetapan Harga Transfer; Pihak-pihak Berelasi; Perusahaan Asosiasi

Referensi: 76 (1983 – 2024).



ABSTRACT

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JURIDICAL ANALYSIS OF THE APPLICATION OF TRANSFER PRICING METHOD AND SPECIAL RELATIONSHIP ASPECTS IN THE PRINCIPLE OF REASONABLENESS AND BUSINESS PREVALENCE: CASE STUDY OF SUPREME COURT DECISION NUMBER 473/B/PK/PJK/2016

(xvii + 130 pages: 3 figures; 10 tables; 1 attachment)

This research aims to analyze the application of the Transfer Pricing method and the special relationship aspect of the arm's length principle, with a focus on the tax dispute decided in the Supreme Court Decision Number 473/B/PK/PJK/2016. The background of this research is based on the importance of Indonesia's tax law system, particularly in preventing tax avoidance practices through Transfer Pricing, which is often utilized by multinational companies to move profits to jurisdictions with low tax rates. In the case of PT Toyota Motor Manufacturing Indonesia (TMMIN), the Directorate General of Taxes (DGT) used the gross profit comparison method, which is not explicitly regulated in Indonesian tax regulations, as the basis for correction. Meanwhile, TMMIN applied the cost-plus method, which is considered to reflect the reasonableness of the transaction. This dispute reveals differences in interpretation of the appropriate method to reflect the principles of reasonableness and business practices in transactions between related parties. This research uses a normative-empirical juridical method with a judicial case study approach to Supreme Court Decision Number 473/B/PK/PJK/2016. The empirical approach is carried out through document analysis of court decisions and secondary data to understand the application of law in practice. The research data was obtained from primary legal materials in the form of laws and court decisions, as well as secondary legal materials such as journals, books, and scientific articles. The data analysis method used is qualitative analysis with a deductive approach to draw conclusions from general principles to specific applications. The application of the Transfer Pricing method in the arm's length principle shows that TMMIN uses the Cost Plus method, which the DGT considers does not reflect differences in domestic and export markets and causes negative profits in export transactions. In contrast, DGT uses the gross profit comparison method, which is not explicitly regulated in Indonesian tax regulations. Special relationship is a key element in transfer pricing analysis, as the arm's length principle only applies if this relationship is clearly identified. Indonesian tax regulations regulate special relationships through capital ownership of at least 25%, control, or family relationships. A comparison with Vietnam shows a broader scope, including control over turnover and intellectual property, with a 20% capital threshold. As a result, special relationships can trigger profit shifting, harming the tax base of developing countries. The DGT in TMMIN's case failed to adequately prove the special relationship, thus weakening their transfer pricing correction argument.

Keywords: Transfer Pricing; Transfer Pricing Method; Related Parties; Associated Companies

Reference: 76 (1983 - 2024).

