Reconstruction of Tax Collection in a Fair Bankruptcy Process in Indonesia

Januardo Sulung P Sihombing, Ignatius Pradipa Probondaru, I Gede Yudi Arsawan
januardo.sihombing@trisakti.ac.id, Ignatius@trisakti.ac.id, yudi_arsawan@trisakti.ac.id

Faculty of Law, Universitas Trisakti, Indonesia

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Abstract
The preamble of the 1945 Constitution of the Republic of Indonesia expresses the hope for a prosperous of the Republic of Indonesia. Achieving this prosperity nation requires adequate state revenue, with taxes playing a crucial role. However, taxes are closely tied to the sustainability of a healthy economy. On the path to a prosperous nation, many businesses face bankruptcy, which often leads to delays in tax debt payments. According to bankruptcy, in refer to article 21 of the KUP Law, tax bills are prioritized over other debts. However, there remains a dual interpretation regarding the hierarchy of creditor payments during the bankruptcy process. Therefore, the state, through its taxation authority, has a responsibility to ensure that taxes—a vital source of state revenue—are accounted for in bankruptcy proceedings. This ensures that the state does not lose a critical source of income needed to distribute tax benefits and maintain public welfare. This study aims to offer insights into the fairness of tax bill settlements within the bankruptcy process. The findings indicate that there is a need for equitable tax collection in bankruptcy cases in Indonesia.

I. Introduction

The state, the people, and taxation are fundamental elements that are closely interconnected with a nation's economic activities, including in Indonesia. In the implementation of Indonesia's economic policy, Pancasila functions as a philosophical foundation, serving both as the basic norm *(grundnorm)* of the Indonesian legal system and as the legal ideal *(rechtsidee)* and guiding belief system of the State. Pancasila possesses two principal characteristics: 1) Normative, as it operates as an ideal prerequisite underlying the formation of all positive laws in Indonesia; and 2) Constitutive, in that it directs the law toward the objectives to be achieved by the State,(Arief Hidayat & Airlangga Surya Nagara, 2011) so that Pancasila becomes the main fundamental rule of the state *(staatsfundamentalnorm)* as stated in the Preamble of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) (*I, II, III and IV of the Preamble to the 1945 Constitution of the Republic of Indonesia*, 1945).

The fourth paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia reflects the State's aspiration to realize social welfare through the Constitution as the supreme legal and constitutional foundation, which embodies the fundamental principles of national governance. This also signifies that the Unitary State of the Republic of Indonesia embraces the concept of a welfare state (Oman Sukmana, 2016).

The issue of the welfare state occupies an essential space. In general, the term "welfare" refers to "well-being" or a better life, related to comfort, happiness, health, prosperity, security, order, and confidence in life (Budi Setiyono, 2018). Apart from being a welfare state, Indonesia is also a state of law. Heraclitus once said that the world is *panta rei*, moving without stopping so that in relation to law, law is not merely rule and logic, but also behavior and social meaning (Mahfud MD, 2011). Law as social meaning then determines the economy and business climate with a positive correlation related to all sectors (multiplier effect). State development is increasing along with economic growth that serves to bring prosperity to the people (Noviati, 2013).

The welfare of the people provides a positive contribution in a democratic state for tax revenue because taxes should be used for the people, by and for the people. This is a social economic idea stipulated in Chapter

XIV, Article 33 paragraph (4) of the 1945 Constitution of the Republic of Indonesia which reads,

> *"The national economy is organized based on economic democracy with the principles of togetherness, equitable efficiency, sustainability, environmental perspective, independence, and by maintaining a balance of progress and national economic unity."*

In the implementation of national economic policy, the State Budget (Actually as known as *Anggaran Pendapatan dan Belanja Negara* or *APBN*) plays a crucial role, as one of its primary sources of revenue is taxation collected by the State from its citizens. This fiscal levy is governed by Article 23A of the 1945 Constitution of the Republic of Indonesia, which provides:

> *"Taxes and other compulsory levies for the purposes of the State shall be regulated by law."*

However, tax-related regulations are still considered rigid and dogmatic, where their implementation burdens business actors. The issue of equitable distribution of the proceeds from tax collection has also become a critical central point for many people, so that the government is considered to have failed to implement the spirit of the Welfare State.

Article 1 point 1 of Law Number 28 of 2007, which amends Law Number 6 of 1983 on General Provisions and Tax Procedures (KUP Law), defines tax as follows:

> *"Tax is a mandatory contribution to the State payable by individuals or entities that is coercive in nature under the law, without direct compensation, and is used for State purposes to promote the greatest welfare of the people."*

The terms "coercive in nature" and "without direct compensation" in this definition reflect the asymmetrical legal relationship between the State and its citizens, particularly in their capacity as taxpayers. This asymmetry has led to the idea of some people not paying taxes because they think they do not get any benefits from the government in addition to the use of taxes by the government is considered not transparent (Noviati, 2013).

Towards a prosperous country certainly requires a journey with its challenges, one of which is the economic crisis. In Indonesia, the global economic crisis occurred in 1997 and made it difficult for businesses to settle their debts and had a detrimental impact on society (Nur Anita Sinaga & Nunuk Sulirusdatin, 2016). Under these conditions, the threat of bankruptcy can be a distortion to the national economy and disrupt the Ease of Dong Business in Indonesia. Bankruptcy is one of the ways out in resolving debt problems. As said by Kenneth Rogoff & Jeromin Zettlemeyer:

> *"Bankruptcy is a set of legal institutions to manage private debt distress that has long captivated thinkers and politicians solving public debt problems."*(Kenneth Rogoff & Jeromin Zettelmeyer, 2001)

Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (Indonesian Bankruptcy Law) defines a creditor in Article 1 point 2 as follows: "A creditor is a person who has a claim arising from an agreement or by operation of law, which is enforceable through a court of law." Under bankruptcy law, creditors are classified into three categories: preferred creditors (*kreditor preferen)*, secured creditors (*kreditor separatis)*, and unsecured creditors (*kreditor konkuren)*. The distinction among these categories lies in the nature and extent of the rights attached to each, as outlined below: (Jono, 2008)

1) **Preferential Creditors**

Preferred creditors are creditors who have privileges granted by law, therefore these creditors are prioritized in order to get repayment first. This is implied in the provisions of Article 1134 of the Civil Code:

> *"Privilege is a right granted by law to a creditor that causes him to be superior to others, based solely on the nature of the receivable. Liens and mortgages are superior to privileges, except where the law expressly provides the opposite."*

2) **Secured Creditors**

Secured Creditors are creditors who hold property security rights including pledges, mortgages, security right over land, fiduciary transfer and other proprietary security rights.

3) Unsecured Creditors

Unsecured creditors are creditors who are not included in the class of preferred creditors and separatist creditors, namely they do not have property guarantees as security for the repayment of debtors' debts.

The dispute resolution mechanism in bankruptcy is dependent on the ability of the debtor's existing assets to be distributed to its creditors. Assets in the context of bankruptcy are regulated only in general terms in Article 21 Indonesian Bankruptcy Law which states that, "bankruptcy covers all of the Debtor's assets at the time the bankruptcy verdict is pronounced as well as everything acquired during bankruptcy." The definition of assets is not as broad as the understanding stipulated in *PSAK* (Statement of Financial Accounting Standards) where Assets are divided into current assets and non-current assets which are all assets owned by a person or company, both tangible and intangible that are valuable or valuable that will bring benefits to a person or company. Meanwhile, the assets that guarantee the debtor's repayment to his creditors are described in the Civil Code as follows:

Article 1131 Civil Code

"All movable and immovable property of the debtor, both existing and future, become collateral for the debtor's personal obligations."

Article 1132 Civil Code

"The properties become joint security for all creditors against which the proceeds of the sale of the properties shall be divided in proportion to their respective receivables unless among the creditors there are legitimate reasons for precedence."

The two aforementioned articles, in relation to the debtor's obligation to repay debts and the existence of the debtor's assets as collateral, reflect the principles of equality amongcreditors *(Paritas Creditorum) and Pari Passu Pro Parte*. According to Kartini Mulyadi, the philosophical foundation of *the Paritas Creditorum* principle arises as a response to injustice when a debtor possesses assets but is unable to satisfy their obligations to creditors. However, if this principle is applied literally, it may in turn result in further injustice, as it treats all creditors equally, without distinction. The *Paritas Creditorum* principle does not differentiate between creditors based on the

amount of their claims or whether they hold security interests or are unsecured creditors (Shubhan & hadi, 2008).

The unfairness of distribution according to the principle of *paritas creditorum* is supported by the principle of *pari passu pro parte* with a model of distribution by comparison between the amount of debt per creditor and total assets. The use of the principle of *paritas creditorum* supported by the principle of *pari passu pro parte* in the context of bankruptcy also still has weaknesses so that it is necessary to look at aspects of justice in accordance with the structure of the position of creditors according to the principle of structured creditors or structured prorate (Shubhan & hadi, 2008b).

The objectivity of weakness must be seen from different dimensions, not only from the side of the creditors but also from the side of the debtor. If the debtor is in the form of a Limited Liability Company, then the aspect of justice also affects the fate of many parties across the aspects of the interests of the company itself, shareholders, employees or laborers, the community, actors in the business chain (suppliers, distributors and consumers), and healthy competition in doing business (Sutan Remy Sjahdeini, 2016). Not to forget, the interests of the community must also be considered through the fulfillment of tax payments paid by the debtor (Sutan Remy Sjahdeini, 2016).

Given that payments must be made from the assets of the bankrupt debtor, the limited condition of the debtor's assets, which is insufficient for all creditors, certainly creates aspects of injustice for creditors. To bridge this, the state needs to be present in fixing the regulatory aspects that are still multi-interpreted in maintaining an economic activity as mandated by Article 33 paragraph (4) of the 1945 Constitution of the Republic of Indonesia which reads, "The national economy is organized based on economic democracy with the principles of togetherness, equitable efficiency, sustainability, environmental insight, independence, and by maintaining a balance of progress and national economic unity." (Article 33 paragraph (4) of the 1945 Constitution of the Republic of Indonesia).

The issues that arise stem from the fact that, although Article 21 of the General Taxation Provisions and Procedures Law (in Indonesia as Referred *Undang-Undang Ketentuan Umum dan Tata Cara Perpajakan* or KUP Law) stipulates that tax claims are granted priority over other debts, in practice there remains a dualism in the interpretation of the creditor payment

hierarchy. This ambiguity is further compounded by Constitutional Court Decision No. 67/PUU-XI/2013, which affirms that workers hold a preferential right to the payment of wages—ranking above the State's tax claims and even secured creditors—with the caveat that components of workers' entitlements other than wages rank below secured creditors. Furthermore, in disputes regarding these preferential rights, conflicting jurisprudence persists, as reflected in the Supreme Court's Cassation Decision No. 09 K/N/2009, which offers a differing interpretation of the order of precedence (KPP Besar Dua v. Receiver of PT Mitra Asindo Utama), the Supreme Court Judges stated that there is no basis to consider the Taxation Law as extra ordinary rules as a creditor that must take precedence, where in bankruptcy cases, Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations is fully applicable.

In another decision based on cassation decision No. 795K/Pdt.Sus/2010, between KPP Madya Tangerang and KPP Penanaman Modal Asing Wilayah IV against the Receiver Team of PT Koryo Internasional Indonesia, the Supreme Court Judges regarding the tax position takes precedence even though in the Judicial Review decision it was reversed. There is a conflict between laws and regulations and court decisions with permanent legal force.

In the bankruptcy process itself, the State through the taxation authority must be present because the state has an interest in ensuring that taxes as the heart of State revenue can participate as a party in bankruptcy, so that the state does not lose a source of income to distribute tax benefits to maintain public welfare.

Based on this, it is important to reconstruct tax collection in bankruptcy cases that are fair in Indonesia. If justice in taxation and bankruptcy are linked, then the privilege of tax bills in the collection process can be maximized by adhering to the perspective of justice. Based on the background description that has been conveyed, the author in this article will answer the problems regarding:

1. What is the role of the State through taxation institutions on bankruptcy issues in Indonesia in encouraging equitable economic activities?
2. How to reconstruct tax collection in the Bankruptcy Institution in order to establish an equitable bankruptcy process?

2. Research Method

Research methods are scientific ways to obtain data with specific purposes and uses based on scientific knowledge that is empirical, rational and systematic (Andra Tersiana, 2018). Bahder Johan Nasution argues that research is an activity that contains certain procedures, in the form of a series of methods or steps that are organized in a directed, systematic and orderly manner (Bahder Johan Nasution, 2016). Referring to the background and problems to be studied, the author uses normative research methods. Legal normative research is researching and examining library materials or secondary data, so it can also be referred to as library legal research, theoretical legal research, or dogmatic (H. Ishaq, 2017) which in this paper concerns the alignment of Taxation and Bankruptcy regulations in Indonesia with the principles of justice as mandated by Pancasila. Sue Milne and Kay Tucker argue that legal research is a process of analyzing legal problems accompanied by solutions to these legal problems through the application of applicable law to these specific facts. (Peter Mahmud Marzuki, 2005) While the approach used in this legal research is an approach using a statutory approach (statue approach) and legal review by revealing the weaknesses, shortcomings, and advantages of a law or regulation under study (Ani Purwanti, 2020). The data used is secondary data consisting of primary legal materials, namely laws and judges' decisions, secondary legal materials such as textbooks, legal journals, as well as comments given on a court decision, and also tertiary legal materials such as dictionaries, cumulative indexes and so on, where the three legal materials are analyzed qualitatively (H. Ishaq, 2017).

3. Results and Discussion

The Role of the State through Taxation Institutions on Bankruptcy Issues in Indonesia in Encouraging Equitable Economic Activities

Position of Tax in Bankruptcy

In the Indonesian bankruptcy process, creditors who register their claims with the debtor through the Receiver Team will generally be classified into three categories, namely preferred creditors, separatist creditors, and concurrent creditors.

1) Preferential Creditors

Preferred creditors are those to whom the law grants a special or priority right in the repayment of debts, typically arising from express statutory provisions. Their claims rank above those of ordinary creditors. Under the Indonesian Civil Code, rights of preference are categorized into two types: special preferential rights (Article 1139 of Civil Code), which attach to specific assets, and general preferential rights (Article 1149 of Civil Code), which extend over the entirety of the debtor's estate. Furthermore, Article 1138 of the Civil Code stipulates that special preferential rights shall prevail over general preferential rights in the order of payment.

2) Secured Creditors

Secured Creditors are creditors who hold property security rights including pledges, mortgages, security right over land, fiduciary transfer and other proprietary security rights.

3) Unsecured Creditors

Unsecured creditors are creditors who are not included in the class of preferred creditors and separatist creditors, namely they do not have property guarantees as security for the repayment of debts of debtors.

In the hierarchy of creditors in the bankruptcy process, tax bills have a position as preferred creditors, as stipulated in Article 21 of the KUP Law which states that tax debts have priority rights over other debts. This is reinforced in Article 1137 of the Civil Code, which confirms that taxes, duties, and levies have preferential rights over all goods owned by the debtor. In this case, tax is a preferred creditor that has the right to precedence. The preference rights include the tax principal, administrative sanctions in the form of interest, fines, increases, and tax collection costs as stipulated in Article 21 Paragraph (1) of the KUP Law

(Suparnyo, 2012). The privilege given to the status of tax bills is a form of realization of justice carried out through bankruptcy arrangements, considering that taxes play a role in improving welfare and providing benefits to the community and the sustainability of the state.

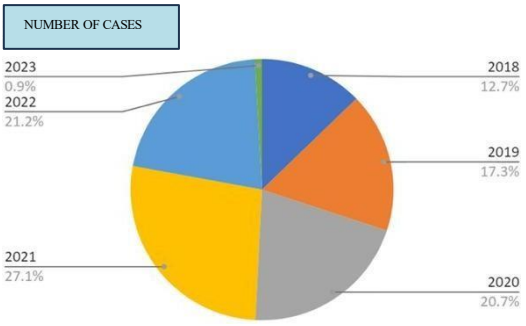
Although tax claims are classified as preferred claims under applicable law, pursuant to Constitutional Court Decision No. 67/PUU-XI/2013, wage claims arising from labor entitlements are accorded a higher priority than all other categories of creditors, including secured creditors, state claims, auction offices, and public entities established by the government. This judicial interpretation has given rise to a dualism in the application of the creditor hierarchy in bankruptcy proceedings.

Tax Collection Issues in Bankruptcy

Tax is a constitutional right that the state has over its people, as stated in Article 23A of the 1945 Constitution of the Republic of Indonesia, which states that "Taxes and other levies that are compelling for state purposes shall be regulated by law." This means that the state has the absolute authority to collect taxes, and this obligation must be fulfilled by every citizen. However, the state's authority in tax collection cannot be exercised arbitrarily. Article 23A of the 1945 Constitution of the Republic of Indonesia stipulates that taxes can only be levied if they are intended for the benefit of the state and must be based on law.

In the context of bankruptcy, tax collection to bankrupt debtors is carried out by the state represented by the Directorate General of Taxes (DGT) through their respective regional offices. The state, through the DGT, must be responsive to bankruptcy cases that are being filed in the District Court. This is because the state has an obligation to ensure that taxes as the main source of state revenue can still receive payment even though the taxpayer is declared bankrupt so that the state does not lose revenue used to support the distribution of tax benefits for the welfare of the community.

Bankruptcy cases can only be heard and decided in 5 (five) commercial courts within the jurisdiction of the Central Jakarta District Court, Surabaya District Court, Semarang District Court, Medan District Court and Makassar Court. Data from five Commercial Courts in Indonesia shows an upward trend in Suspension of Debt Payment Obligation (PKPU) and Bankruptcy cases from 2018 to 2023 which were affected by the presence of Covid-19 as shown in the following graph and table (Heylaw, 2023):



The number of Bankruptcy and Suspension of Debt Payment Obligation (PKPU) cases has continued to increase for four years, from 2018 to 2023. In 2018 the total number of bankruptcy cases in all commercial courts in Indonesia amounted to 406 cases. Then in 2019 it increased with a total of 552 cases. In 2020 cases continued to increase to 660 cases. In 2021 there was another increase with a total of 863 cases and only then in 2022 to 2023 Suspension of Debt Payment Obligation (PKPU) and Bankruptcy cases began to decline.

BANKRUPTCY COURTESY CASES 2020-2023

NO	YEAR	COURT	Cases Total	
			Bankruptcy	PKPU
1	2020	Pengadilan Negeri Medan	11	43
		Pengadilan Negeri Jakarta Pusat	57	441
		Pengadilan Negeri Semarang	32	52
		Pengadilan Negeri Surabaya	10	98
		Pengadilan Negeri Makassar	6	8
2	2021	Pengadilan Negeri Medan	12	51
		Pengadilan Negeri Jakarta Pusat	55	511
		Pengadilan Negeri Semarang	34	51
		Pengadilan Negeri Surabaya	31	108
		Pengadilan Negeri Makassar	4	5
3	2022	Pengadilan Negeri Medan	4	53
		Pengadilan Negeri Jakarta Pusat	53	394
		Pengadilan Negeri Semarang	30	57
		Pengadilan Negeri Surabaya	21	94
		Pengadilan Negeri Makassar	4	9
4	2023	Pengadilan Negeri Medan	9	53
		Pengadilan Negeri Jakarta Pusat	43	406
		Pengadilan Negeri Semarang	12	43
		Pengadilan Negeri Surabaya	21	136
		Pengadilan Negeri Makassar	4	18
Total			**453**	**2631**

Despite the decline, the number of bankruptcy and Suspension of Debt Payment Obligation (PKPU) cases remains high. Based on Article 86 paragraph (3) of Indonesian Bankruptcy Law, the Receiver will notify the agenda of the creditors' meeting to known creditors by registered mail, however, it is not uncommon for the tax office where the debtor is a taxpayer to be uninformed regarding the bankruptcy of the taxpayer. Therefore, it is important for DGT to be active in tracking bankruptcy cases against taxpayers.

In relation to the types of creditors in bankruptcy, there are several preferred

creditors with their own basis and legal basis, resulting in disputes in bankruptcy practice such as in terms of the superiority of the right of precedence on taxes and on labor. Although tax has a special position in bankruptcy in Indonesia, there are challenges in its implementation to balance the interests of the state with the principle of justice for all parties involved. Therefore, the presence of the state through the DGT is needed to ensure the implementation of preference rights for tax bills.

Reconstructing Tax Collection in Bankruptcy Procedure to Establish an Equitable Bankruptcy Process

Justice in Taxation and Bankruptcy Law

Pancasila is the source of all sources of law in Indonesia which reflects the attitudes and behavior of the Indonesian people as a guide in running a humane, just, civilized and socially just life. Justice in the Indonesian national legal order is social justice based on Pancasila which must be obtained by citizens as a basic right (Dardji Darmodiharjo & Shidarta, 2006).

Social justice as the goal of the State is the accumulation of the interests of every human being as an individual in the State which is reflected in 3 (three) forms, namely *Justicia Commutativa, Justitia Distributiva, Justitia Legalis*. *Justicia Commutiva* is a norm that regulates relations between individuals or institutions that are equal, *justitia distributiva* is a norm that determines the obligations of society to improve the welfare of individuals, and *justitia legalis* shows the norm that determines the obligations of individuals to society (Nindyo Pramono, 2007).

The word justice is a combination of moral and social values that embody aspects of fairness, balance, temperance, and straightforwardness.*(Agus Santoso, 2012)* Justice is a value that is a measure and indicator of life in society, nation and state(Hans Kelsen, 2007). Tax is an instrument that has a revenue function for State financing *(budgeter),* regulation to achieve certain goals (*regulerend*) and redistribution *(equalization)* for the benefit of people's welfare. In many cases, especially in developing countries, including Indonesia, taxes are still economically understood as part of the transfer of resources from the private sector to the public sector, and juridically understood as an imposition and collection effort imposed on citizens to fulfill their obligations (Edi Slamet Irianto & Syarifuddin Jurdi, 2005). The purpose of tax is actually a value that the legitimacy of tax is its fairness. If the tax is perceived as unfair by the community, then the basis of its legitimacy must be questioned. In other words, fairness is the main objective of the tax system and management because without fairness, tax

performance can be said to have failed (Abdul Asri Harahap, 2004).

The principle of justice is also found in bankruptcy law which is reflected in the principles of *paritas creditorum, pari passu pro parte, and structured creditorium*. However, these principles have not yet answered the discourse of injustice in the field, specifically regarding the sharp conflict regarding the right of precedence, one of which is tax. In this condition, the State serves as a Preferred Creditor who has the right to collect bills, but also carries out the function of maintaining welfare and justice in economic activities as mandated by Article 33 paragraph 4 of the 1945 Constitution of the Republic of Indonesia.

The principle of justice in bankruptcy implies that the provisions regarding bankruptcy can fulfill a sense of justice for the parties concerned. This principle of justice is to prevent the arbitrariness of collectors who seek payment of bills (Januardo S.P. Sihombing, 2024). However, the problem with the rigid application of this system is the fact that every time bankruptcy takes place, it is clear that the value of the bankrupt debtor's assets is lower than the creditors' receivables charged to it. On the face of it, this has the potential to cause legal problems, namely the emergence of mass injustice against other creditors, because other creditors who are non-preferred creditors (which may fall into the classification of separatist creditors or concurrent creditors), also have the potential to fall into a state of bankruptcy, when the receivables owed to the bankrupt debtor are delayed in payment because the maximum portion of payment is determined for the allocation of outstanding tax receivables and payments to Separate Creditors as security holders.

The Fight for Justice between Creditors and Debtors in Bankruptcy Proceedings

In its implementation, the bankruptcy process cannot be separated from legal relationships with various parties who become creditors. Article 1 point 8 of Law Number 19 Year 2000 on Tax Collection with Forced Letters (PPSP Law) regulates that tax debts are taxes that must still be attached with administrative sanctions in the form of interest, fines, or increases stated in tax assessment letters or similar letters based on tax laws and regulations. The period to fulfill the obligation is 1 (one) month from the issuance of the tax assessment letter or similar letter. If the due date passes, the state represented by the bailiff can carry out active collection to force the taxpayer to pay off the tax debt. In other words, Tax collection actions before the corporate taxpayer in the process are carried out using procedures in accordance with the PPSP Law, which begins with a taxpayer notification

submitted by the Receiver selected by the Supervisory Judge based on the bankruptcy verdict.

Referring to Article 17 of the KUP Law, before collecting the Directorate General of Taxes needs to conduct an audit first until the assessment letter is issued, Article 17 of the KUP Law states as follows:

Article 17 paragraph (1) of UU KUP

The Director General of Taxes, after conducting an audit, issues an Overpaid Tax Assessment Letter if the amount of tax credit or the amount of tax paid is greater than the amount of tax payable.

Article 17 paragraph (2) KUP Law

Based on the request of the taxpayer, the Director General of Taxes, after examining the correctness of the tax payment, issues an Overpaid Tax Assessment Letter if there is a tax payment that should not be payable, the provisions of which are regulated by or based on the Minister of Finance Regulation.

Article 17 paragraph (3) KUP Law

Tax Assessment Letter for Overpayment can still be issued again if based on the results of the examination and/or new data it turns out that the overpaid tax is greater than the tax overpayment that has been determined.

After the Receiver has recorded all the assets of the corporate taxpayer and all the debts of the creditors, each creditor will be summoned to a tax bill matching meeting, also known as a verification meeting. In relation to tax preferred creditors, discussions begin on various debt variables that can be reduced in size to support the position of bankrupt debtors who actually have the "intention to pay" (Amber J. Moren, 2013), but are constrained by circumstances (often called the debtor's dilemma in the worst of times, according to Amber J. Moren, when quoting from Charles Dickens' The Tale of Two Cities). With regard to this position, Murray Z. Frank and Vidan K. Goyal put forward the idea that, "It would be easy to combine the idea with tax savings of debt" (Murray Z. Frank & Vidan K. Goyal, 2003).

Given that justice in bankruptcy is justice for the parties including creditors and creditors, the space for matching receivables or verification is an important means of optimizing the tax debt collection mechanism. Often the matching in

the debtor's book does not match the bills registered by creditors. This is the main point of tax verification. At this stage, generally the state through the DGT of the taxpayer's regional office conducts collection based on the recording of the calculation results referring to the law. However, the calculation is often different from the facts owned by the debtor. The role of the receiver becomes crucial, because it is the receiver who is tasked with facilitating each meeting of creditors and debtors.

This verification room is important to be used as a means of discussion for creditors and debtors so that debtors who actually have good intentions to pay taxes but are experiencing financial difficulties have the right to fight for the recognition of their debts. By strengthening the discussion mechanism in this verification, it is hoped that the bankruptcy process can run more efficiently, transparently, and fairly, thus not only protecting the state's interest in tax collection, but also providing space for debtors to settle their obligations without adding excessive burden. This will have a positive impact on economic recovery and the stability of the bankruptcy system in Indonesia.

Reconstructing a Fair Tax Collection Function

The structure of tax law and bankruptcy as positive legal norms in Indonesia must be understood within the framework of a legal system. Sudikno Mertokusumo likens the legal system to a mosaic picture, which is a picture that is cut into small parts and then reconnected, so that it looks whole again like the original picture. Each part cannot stand alone apart from its relationship with others but is intertwined with other parts. Each part has no meaning outside of that unity. Within that unity there is no conflict or contradiction. If there is a conflict, it will be immediately resolved by and within the system itself (Mertokusumo, 1991).

Court Cases

Based on the practice of the principle of social justice, which according to Nindyo Pramono is evolutive and dialectical (Nindyo Pramono, 2007), As reflected in the fifth principle of Pancasila which relates to the allocation of communal and comprehensive goodness, the closest orientation that needs to be a system improvement in the concept of synergy can be actualized through the reconstruction of the tax function as an element of the state's presence in the design of the welfare state.

In connection with the facts described above, the idea of 3 (three) basic legal

values from Gustav Radbruch is very relevant in exploring and finding the essence of law (FX. Adji Samekto, 2015). Gustav Radburch said that the law must fulfill three basic values that must be integrated in the law that the law must contain three basic values, namely: 1) justice (philosophical aspect); 2) certainty (juridical aspect), and 3) expediency (sociological aspect). The value of legal expediency is studied and analyzed with a comprehensive understanding. In bankruptcy disputes, economic analysis of law is important because basically law and economics are a unified and complementary science so that legal issues are analyzed neutrally according to social welfare maximation analysis (Conboy & Indriyanto Seno Adji, 2015). The synergy of these two concepts of science is very clear because both are scientifically related to human behavior. Broadly speaking, the science of law regulates human behavior, while economics studies human behavior in meeting their needs, so that both have a close correlation, interdependence with one another, need each other and do not stand alone (Fajar Sugianto, 2014).

In relation to the bankruptcy system in Indonesia, there are still various challenges, one of the main problems is the imbalance in the priority of debt payment, where tax bills as preferred creditors often clash with the rights of other creditors, such as separatist creditors and concurrent creditors. A number of regulations governing bankruptcy, especially Indonesian Bankruptcy Law, are often conflicting with specific regulations in the field or against decisions of the Constitutional Court. This shows the weakness of the regulation, namely the absence of provisions that explicitly regulate the hierarchical structure of creditors in the same regulation, resulting in dualism of interpretation regarding the hierarchy of creditors.

On the other hand, tax collection procedures by the DGT also require harmonization. Some of the challenges faced in practice include disagreements regarding the execution of tax bills in bankruptcy, tax calculations that have significant differences with debtors' books, and the absence of a more flexible tax resolution mechanism for bankrupt debtors who are truly unable to pay. Therefore, harmonization of Indonesian Bankruptcy Law is needed to create a more harmonized regulation between the taxation and bankruptcy systems by drafting a firmer arrangement regarding payment priority in bankruptcy, so that there is no conflict of interest between tax creditors and other creditors.

Regulatory reform and legal practice are needed so that the bankruptcy system can be more equitable and in line with applicable legal principles, so that

it not only protects the state's interests in tax collection, but also provides better legal protection for the parties in bankruptcy.

4. Conclusion

The conclusions of this study are as follows:

The reconstruction of the tax collection system in bankruptcy is crucial to create a balance between the state's rights as a tax collector and the interests of other creditors. This is because in the future tax revenues will be distributed to the people. In practice, there is still a dualism of interpretation regarding the hierarchy of creditors at the stage of debt payment in bankruptcy, which has the potential to cause inequality in the settlement of debtors' debts. Therefore, reconstruction efforts are needed, both in terms of regulations and implementation mechanisms, to ensure that the bankruptcy system adheres to the principles of justice as mandated in Pancasila and the constitution. Reforms that can be carried out include aligning or harmonizing regulations between bankruptcy and tax laws, implementing a more legally certain tax preference system, and prioritizing the discussion process through verification meetings to achieve a fair settlement in the bankruptcy process of bankrupt debtors. With these steps, it is hoped that the bankruptcy system in Indonesia can run more transparently, fairly, and not harm the parties involved, while maintaining the stability of state revenue for the welfare of the community.

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