



Contemporary Accounting Case Studies

Vol. 2, No. 2, September 2023

Article 17

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VAT DEDUCTION RIGHTS DISPUTES: A LESSON FROM INDONESIAN TAX COURT DECREES

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ABSTRACT

Input tax credit keeps prices competitive because the taxable entrepreneur (TE) does not bear the value added tax (VAT) burden. However, the rights of the TEs to credit input VAT are limited by joint and several liability (JSL) provisions applied through the confirmation of input tax invoices and by complete tax invoice legal formalism. The buyer TE cannot deduct the input VAT if the seller TE does not pay the VAT that has been collected or issues incomplete tax invoices. The two provisions have caused many disputes between TEs and the tax authority, which is experiencing a low win rate at the appeal stage. This study evaluates the factors causing disputes related to the two provisions. Triangulation was conducted through content analysis of tax court decrees published in the period 2017-2021 and interviews with the tax authority. The results show that the seller TE had not reported the tax invoices and the KPP of the seller TE had not issued a notice of tax assessment, which was the cause of 91% of the disputes related to the application of JSL through the confirmation of input tax invoices. At the same time, disputes over the crediting of incomplete tax invoices were caused by discrepancies in the identity of the seller/buyer, the serial number, date, item description, transaction code, tax invoice signing, and other causes such as exchange rates.

Keywords: incomplete tax invoice, input tax confirmation, input vat crediting right, joint and several liability, VAT dispute.

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1. INTRODUCTION

The input tax crediting mechanism is an essential element of value added tax (VAT) that distinguishes it from sales tax. Input tax credit aims to relieve the taxable entrepreneur (TE) from the burden of VAT on goods/services purchased. According to Cnossen (2018), the right to deduct input VAT against output VAT reflects the neutrality of the tax. However, VAT regulations in Indonesia limit the right to credit input tax under certain conditions. They state that the buyer TE is jointly and severally responsible for the VAT payment, so it cannot credit the input VAT if the seller TE does not deposit it. In addition, input VAT can only be credited if the tax invoice received from the seller TE is a complete tax invoice that meets the legal formalism stipulated by the Directorate General of Taxes (DGT).

According to van Brederode (2020), joint and several liability (JSL) is a provision that transfers the risk of VAT loss from the seller (as VAT collector) to another party (i.e., the buyer). The tax auditor applies the JSL through the input tax invoice confirmation to the seller TE. The buyer TEs may lose their rights to deduct the input VAT if the confirmation result shows that the related seller TEs did not deposit the collected VAT (Kasim & Pasha, 2021). In addition, complete tax invoice legal formalism is a provision that is applied to ensure that taxpayers comply with the formal provisions set by the tax authority in the issuance of tax invoices (de la Feria, 2020). The buyer TEs may lose their rights to deduct the input VAT if the seller TEs issue an incomplete tax invoice, even though the VAT collected has been deposited.

Restrictions on input tax credit rights have led to many disputes between the tax authority and taxpayers. Constantin (2017) studied input tax crediting rights based on content analysis of the European Union's Court of Justice decrees and the European Union's human rights court. His research shows that the rights of the TEs to credit input tax cannot be limited. The action of the tax authority to deny this right is an abuse of the law. De la Feria (2018) examined court decrees in the European Union and found that the tax auditor had denied the TE's right to credit incomplete input tax invoices, even though supporting documents had been provided. Her study concludes that tax auditors prioritise formality aspects rather than considering the essence of the transaction (material aspects). Meanwhile, Saptono et al. (2021) analysed VAT court decrees in Indonesia in 2019 using the content analysis method. Their results indicate that the main issues in input VAT disputes generally came from different interpretations and inaccuracies in supporting evidence.

Based on the e-research DGT (2022), there were 241 disputes in Indonesia in 2021 related to the application of JSL through the confirmation of input tax invoices, with a DGT win rate of 29.05% in the tax court. At the same time, there were 206 incomplete input tax invoice crediting disputes, with a DGT win rate of 19.42%. The trend of the two types of dispute from 2017 to 2021 can be seen in Figure 1.

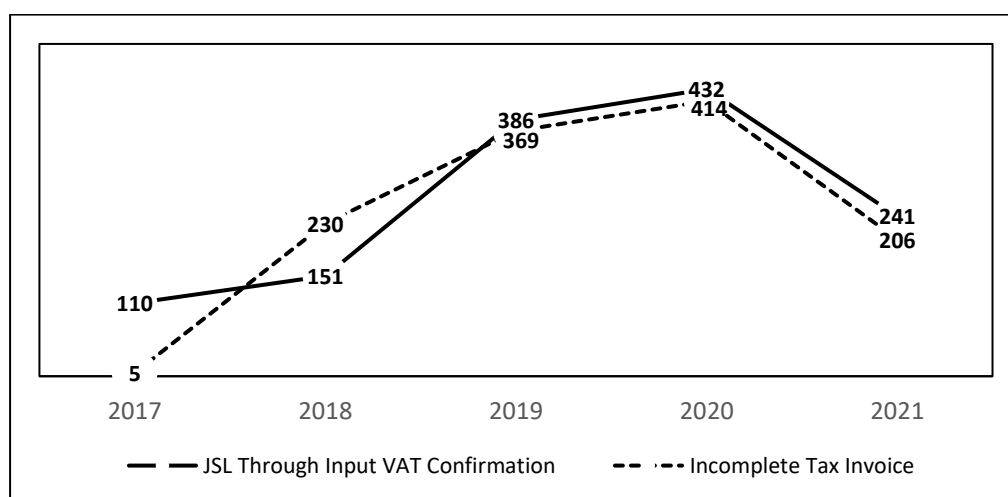


Figure 1. Input Tax Crediting Dispute Trend.

The number of disputes occurring between the tax authority and taxpayers indicates a poor tax collection system. Poor tax policies lead to tax evasion, corruption, and low investment (Tanzi, 2018). This study intends to evaluate the factors causing disputes related to the application of JSL through the confirmation of input tax invoices and the crediting of incomplete input tax invoices. Evaluation of this is needed, considering that the low level of DGT victories in the two types of dispute will cause uncertainty. The research questions are:

1. What factors cause disputes related to the application of JSL through the confirmation of input tax invoices?
2. What factors cause disputes related to the crediting of incomplete input tax invoices?

The study aims to contribute to the VAT literature related to TEs' right to credit input tax after the enactment of Law Number 7 of 2021 concerning the Harmonization of Tax Regulations. It uses a qualitative approach with content analysis techniques on tax court decrees, together with interviews with the tax authority. The results are intended to guide taxpayers in fulfilling their VAT obligations and to encourage them to administer VAT documents in an orderly

fashion. It also provides insights for the tax authority in formulating input VAT policy so that the number of input VAT disputes can be reduced.

2. LITERATURE REVIEW

2.1. VAT SYSTEM AND PRINCIPLE OF NEUTRALITY

VAT is an indirect tax imposed on the consumption of goods and services at every stage of the production and distribution chain. As an indirect tax, the party who bears the VAT burden differs from the one responsible for collecting and depositing it (Darussalam et al., 2018). In the VAT collection system, the buyer TE makes a VAT payment to the seller TE (input VAT). The seller TE provides a tax invoice and is responsible for depositing the VAT into the state treasury. The buyer TE then sells to another buyer TE, issues a tax invoice, and collects VAT (output VAT). Before depositing the VAT in the state treasury, the TE will deduct or credit the amount of input VAT paid through the seller TE with the amount of output VAT collected. This cycle continues until the buyer no longer has the right to deduct or credit the input tax.

The TE's right to credit input VAT reflect neutrality in the VAT system (Darussalam et al., 2018; Kristoffersson, 2018). According to the International VAT/GST Guidelines, neutrality is a fundamental principle in the VAT collection system (OECD, 2017). The collection is neutral because it does not affect the economic decisions of businesses or consumers (Darussalam et al., 2018; Varju, 2019). VAT should not be included in production costs because its imposition is not intended to tax the TEs. The loss of rights to credit input VAT violates the principle of neutrality because the buyer TEs bear double taxation and must include VAT in the components of production costs (Constantin, 2017).

2.2. JSL AND TAX INVOICE CONFIRMATION

JSL is one of the policies to prevent fraud by diverting the risk of VAT loss from the VAT collector to other parties (van Brederode, 2020). Any parties in the transaction chain can be held accountable for the VAT collected but not deposited. JSL is applied when the seller TE collects VAT from the buyer TE but does not deposit it (known as missing trader fraud). The buyer may be subject to the obligation of VAT payment, although they have received the tax invoice and paid the VAT through the seller. In Indonesia, JSL is known as *tanggung jawab renteng* and implemented under Article 16F of Law Number 8

of 1983 concerning VAT on Goods and Services and Sales Tax on Luxury Goods, as amended by Law Number 7 of 2021 (referred to as VAT Law).

Article 16F of VAT law states that the buyer TE is jointly liable for the VAT payments. The commentary of Article 16F states that JSL arises because the burden of paying VAT is on the buyer or consumer. JSL is not applied if: (a) the VAT payable can be collected from the seller, or (b) the buyer can show proof of having paid VAT to the seller. The tax auditor applies JSL through the input tax invoice confirmation and confirms the input tax invoice to ensure that VAT has been deposited by the seller TE so that the buyer TE can credit the input tax. Confirmation is one of the audit techniques regulated in the Circular Letter of DGT (SE DGT) Number 65 of 2013. According to Kasim dan Pasha (2021), the buyer TEs will be jointly and severally responsible and lose their rights to credit input tax if the confirmation result states "nothing".

According to the Decree of DGT Number KEP-754/PJ./2001 (referred to as KEP-754/2001), the tax auditor makes the input tax invoice confirmation to the tax office where the seller TE is registered (referred to as the KPP of the seller TE). The confirmation is made if the VAT amount credited by the buyer TE on the input tax invoice is IDR 500,000 or more. The answer given by the KPP of the seller TE to the tax auditor can be in the form of:

- 1) "exists and matching";
- 2) "nothing", which explains that the tax invoice has not been reported by the seller TE and their KPP has issued a notice of tax underpayment assessment (called SKPKB) or one of additional tax underpayment assessment (called SKPKBT); or
- 3) "nothing", which explains that the tax invoice is invalid because the tax invoice was issued by an entrepreneur who is not a TE, or the seller TE has never sold the goods/services to the buyer TE.

The tax invoice in 1) and 2) above can be calculated as a creditable input tax, whereas that in 3) cannot be counted so.

The KPP of the seller TE must provide an answer within one month from the date of the confirmation request. This period includes the period of the issuance of warning letters and SKPKB/SKPKBT to the seller TE who has not carried out their tax obligations. Consequently, the confirmation with a "nothing" answer by the KPP of the seller TE must be accompanied by the issuing a warning letter and SKPKB/SKPKBT. If a clarification answer has not been received within one month, then the input tax invoice can be credited if proven that the tax invoice is valid, based on the test of goods and money movement.

2.3. TAX INVOICE LEGAL FORMALISM

Article 13, paragraph 5 of the VAT Law states that the tax invoice must contain at least: (a) the identity of the seller TE (name, address, and Tax Identification Number/TIN); (b) the identity of the buyer (name, address, and TIN, as well as the residence registration number or passport number for individual buyer); (c) the types of goods/services, selling/replacement prices, and discounted prices; (d) the amount of VAT collected; (e) Sales Tax on Luxury Goods collected (if any); (f) code, serial number, and date; and (g) the name and signature of the tax invoice issuer.

The commentary of Article 13, paragraph 9 of the VAT Law explains that a tax invoice should meet formal and material requirements. Formal ones are met if the tax invoice is filled out completely, clearly, and correctly. On the other hand, material requirements are met if the tax invoice contains essential information regarding the delivery of goods/services, export of goods/services, import of goods, or utilization of intangible assets. Even if the VAT payable has been paid, if the information stated in the tax invoice does not meet the formal requirements, the input VAT cannot be credited under Article 9, paragraph 8, letter f of the VAT Law.

2.4. PROPORTIONALITY IN SANCTIONS

Every violation should receive punishment from the tax authority (Nuryanah et al., 2021). However, the severity of the penalty applied must be proportionate to the level of taxpayer violation (Waerzeggers et al., 2019). The imposition of sanctions must be made carefully to provide a deterrent effect and ensure justice. According to Waerzeggers et al. (2019), proportionality in sanctions means they are applied according to the level of violation by considering the impact of losses arising from the taxpayer's actions. In the VAT system, the principle of proportionality plays an important role. The European Court of Human Rights states that intervention in the rights of taxpayers to reclaim input VAT potentially violates the principle of proportionality (Audzevičius, 2014).

In Indonesia, the buyer TE will lose the right to deduct input VAT (10% of the tax base) if the seller TE does not deposit the VAT collected or issues an incomplete tax invoice. The buyer TE will also be subject to an additional 75% penalty from VAT that is not paid under Article 13, paragraph 3 of Law Number 6 of 1983 concerning General Provisions and Tax Procedures, as amended by Law Number 7 of 2021. On the other hand, the penalty and mechanism to collect

VAT that the seller TE has not deposited seem unclear, because there are no technical regulations yet to implement JSL provisions (Dahlan, 2018; DDTC, 2020). According to article 14 of Law Number 7 of 2021, a seller TE who issues incomplete tax invoices is only subject to sanctions in the form of 1% of the tax base.

2.5. RESEARCH FRAMEWORK

The application of JSL through the confirmation of input tax invoices and their formal requirement limits the right to deduct input tax. These restrictions have caused many disputes between the tax authority and taxpayers. The number of disputes arising and the low level of tax authority victories in tax appeals indicate an unfavourable tax policy. Evaluation of the factors causing both types of dispute through content analysis of tax court decrees is necessary. The findings obtained were then confirmed with the tax authority in interviews to understand the problems better and identify improvement efforts needed, as shown in Figure 2.

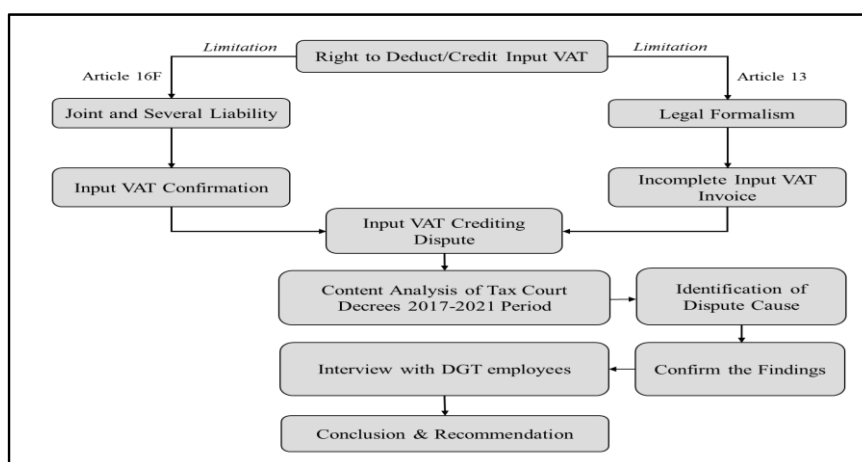


Figure 2. Research Framework.

3. RESEARCH METHODS

The study employed a qualitative method using primary and secondary data. Interviews were conducted to obtain the primary data, whereas the secondary data came from tax court decrees and DGT e-research data. Data collection was made using triangulation to increase its validity. According to Sugiyono (2018),

triangulation is a method for collecting and testing the credibility of data. That used in this study involved a technique by which the researcher collected data through documentation related to tax court decrees and confirmed the results through semi-structured interviews. This type of interview was employed to keep the discussions running flexibly, allowing the informants to truthfully express their opinions.

The sampling technique was based on non-probability sampling. It was performed purposively because the sample was selected with specific considerations. The criteria used for the tax court decrees were ones that involved tax invoice confirmation disputes; incomplete tax invoice crediting disputes; or both. On the other hand, the criteria used for the interviews were that the informants had knowledge or experience of the problem studied and had worked at DGT for more than five years.

Sugiyono (2018) states that qualitative research is reliable if others can replicate it. The data collection process needs to be explained in detail to allow for such replication and to ensure reliability. The process in this case was conducted as follows: (a) the tax court's websites, www.setpp.kemenkeu.go.id/risalah and www.setpp.kemenkeu.go.id/risalah/IndexPutusan, were accessed (b) the keywords *input tax confirmation; joint and several liability*; and *incomplete tax invoices* were used; (c) the documents downloaded were reviewed to ensure that the decrees involved the dispute studied; and (d) decrees issued before 2017 were eliminated. The data collection process resulted in 50 decrees issued in the five years, 2017 to 2021. This period was used to obtain the latest tax court decrees, while the 2022 period was not included due to the limitations of the data obtained. According to Budiastuti and Bandur (2018), researchers who use non-probability sampling do not need to be concerned with sample size because this is simply limited to the sample under study, not the entire population.

The study informants were six employees from the Jakarta Special Regional Tax Office, consisting of four tax auditors (coded as PP), one objection reviewer (coded as PKK), and one account representative (coded as AR). In addition, an interview was also conducted with an employee at the DGT Head Office in charge of formulating VAT policy (coded as KP 1). Details of the informants are given in Table 1.

Table 1. Research Informants

No.	Informant	Code	Criteria
1.	Tax Auditors	PP 1 - PP 4	Informants who had made audit adjustments related to the two types of dispute under study.
2.	Objection Reviewer	PKK	An informant who had handled objection requests related to the disputes under study.
3.	Account Representative	AR	An informant who had supervised input tax crediting by taxpayers.
4.	DGT Head Office	KP 1	An informant who was in charge of formulating input VAT regulations.

4. ORGANIZATION PROFILE

Jakarta Special Regional Tax Office is a Regional Tax Office (RTO) with the second-largest DGT revenue. The office has nine vertical units, with a working area covering the whole of Indonesia. It was chosen for this study because of the large number of VAT disputes it handles. In 2021, 40% or 2,384 VAT disputes in the DKI Jakarta area originated from this RTO. The study was also conducted at the DGT Head Office in charge of formulating VAT policy, namely the Directorate of Taxation Regulations I. This directorate prepares the formulation and implementation of policies; deals with norm-setting, standards, procedures, and criteria; and provides technical guidance and evaluation in the VAT regulatory field.

5. RESULTS AND DISCUSSION

5.1. RESULTS

Based on the search, 50 tax court decrees were obtained from the period 2017 to 2021. Of these, 40% (20 decrees) involved disputes related to the application of JSL through the confirmation of input tax invoices; 36% (18 decrees) involved incomplete input tax invoice crediting disputes; and 24% (12 decrees) involved both types of dispute. Therefore, analysis related to the application of JSL through the confirmation of input tax invoices was made on 32 decrees. In addition, analysis related to the crediting of incomplete input tax invoices was made of 30 decrees, as shown in Figure 3.

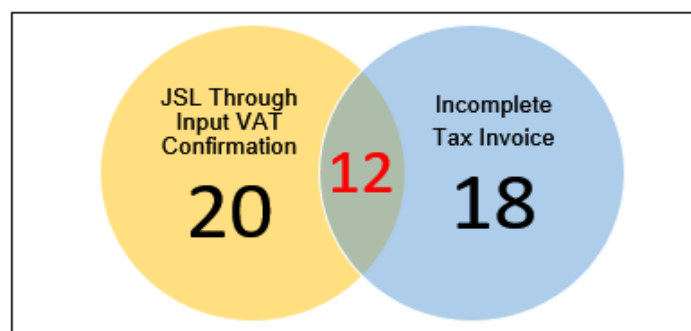


Figure 3. Data Collection Results.

Most tax court decrees related to 2018, 2019, and 2021. Those from 2018 represented 42%, or 21 documents; those from 2019 contributed 32%, or 16 documents; and those from 2021 accounted for 12%, or six documents. Decrees from 2017 and 2020 contributed 8% (four documents) and 6% (three documents) respectively. The documents were analysed using the Creswell model. The steps taken in the data analysis were as follows: (a) the tax court decree documents obtained were classified based on the type of dispute; (b) the entire documents were read; (c) themes or categories were applied in the form of the causes of tax adjustment, evidence, decisions, and arguments of the judges; (d) a description was made of each theme; (e) relationships between themes were established; and (f) the findings were interpreted.

Factors Causing Disputes Related to the Application of JSL through the Confirmation of Input Tax Invoices

The analysis of the 32 decrees shown in Table 2 indicates that 26 decrees were fully approved, two decrees were partially approved, and only four decrees rejected the taxpayer's request. This means that the DGT win rate was only 12.5%. The causes of disputes can be grouped into three categories: (1) the confirmation was answered with 'nothing' because the tax invoice had not been reported by the seller TE and a SKPKB or SKPKBT had not been issued by the KPP of the seller TE; (2) the confirmation was answered with 'nothing' because the tax invoice was issued by a seller who was not a TE, or their TE status had been revoked; and (3) the confirmation had yet to be answered.

Table 2. Disputes Related to the Application of JSL through the Confirmation of Input Tax Invoices

No	Cause of Disputes	Number of Decreases	Percentage of Total	Fully Approved	Partially Approved	Rejected
1.	The tax invoice had not been reported and a SKPKB/SKPKBT had not been issued by the KPP of the seller TE	29	91%	24	2	3
2.	The tax invoice was issued by a non-TE or revoked TE	2	6%	1	0	1
3.	The confirmation had yet to be answered	1	3%	1	0	0
Total		32	100%	26	2	4
Percentage of Total		100%	-	81.25%	6.25%	12.5%
DGT Win Rate		Rejected decrees (4) : total decrees (32) x 100% = 12.5%				

Table 2 shows that 91% of disputes were due to cause 1. The judges' decisions that fully approved the twenty-four appeal requests were based on the consideration that the buyer TEs could provide documents showing the money and goods movement. The judges could be sure that the transaction took place and that the VAT payable had been paid, so the JSL was not applied. The judges partially approved two appeal requests because several tax invoices could not be shown in their original form or were not accompanied by supporting documents. In addition, three appeal requests were rejected, for two reasons. The first was that the amount paid differed from that stated in the tax and commercial invoices, while the second was that the buyer TE only submitted the tax invoice and a recapitulation of money and goods movement without supporting documents.

The disputes caused by reason 2 in Table 2 occurred because the tax invoice was issued by a seller who was not a TE or whose TE status had been revoked. The judges accepted the appeal request because the seller was still a TE when making the transaction. Moreover, the buyer could show proof that the VAT had been paid. On the other hand, the judges maintained the tax audit adjustment if the status of the seller TE had been revoked during the transaction.

The confirmation answer that had yet to be received caused a dispute because the KPP of the seller TE did not provide an answer within the stipulated time

limit, so the tax auditor followed up with a movement test. However, the test was not proven because the buyer TE did not submit all the requested documents, so the tax auditor denied the input tax credit. The judges fully approved the buyer TE request because they could provide documents proving that VAT had been paid at the appeal stage.

Out of all the decrees, only four (13%) contained a follow-up to the confirmation results with a goods and money movement test. The tax auditors conducted a movement test on three decrees regarding the confirmation with a "nothing" answer (reason number 1) and one decree regarding the confirmation that had not been answered yet (reason number 3). Even though the tax auditors did a goods and money movement test, the test results were not conclusive because the buyer TE did not provide the requested documents during the audit. On the contrary, the movement test was conclusive during the appeal process because the buyer TE was able to show sufficient supporting evidence at the appeal stage. The evidence able show the money and goods movement were: (a) tax invoices; (b) commercial invoices; (c) delivery orders; (d) purchase orders; (e) payment vouchers; (f) records of transfer; (g) proof of payment (proof of transfer, checking account, and cash receipt); and (h) copies of supplier's VAT returns.

Factors Causing Disputes Related to Incomplete Input Tax Invoice Crediting

The analysis of 30 tax court decrees in Table 3 shows that 25 decrees were fully approved, two decrees were partially approved, and three decrees rejected the taxpayer's request. This means that the DGT win rate was only 10%. The results show that the incompatibility of the information given in the credited tax invoice with that requested in Article 13, paragraph 5 of the VAT Law made the tax auditor deny the input tax and caused the disputes.

Table 3. Disputes Related to Incomplete Input Tax Invoice Crediting

No	Cause of Dispute	Number of Decrees	Percentage of Total	Fully Approved	Partially Approved	Rejected
1.	Identity of the buyer/seller	7	23%	7	0	0
2.	Serial number	5	17%	4	1	0
3.	Date	4	13%	3	1	0

No	Cause of Dispute	Number of Decrees	Percentage of Total	Fully Approved	Partially Approved	Rejected
4.	Item description	4	13%	4	0	0
5.	Transaction code	3	10%	3	0	0
6.	Tax invoice signing	2	7%	2	0	0
7.	Others	5	17%	2	0	3
Total		30	100%	25	2	3
Percentage of Total		100%	-	83%	7%	10%
DGT ^a win rate		Rejected decrees (3): total decrees (30) x 100% = 10%				

Table 3 demonstrates that disputes were caused by discrepancies in the identity of the buyer/seller (23%), serial number (17%), date (13%), item description (13%), transaction code (10%), and tax invoice signing (7%). In addition, 17% of the disputes were caused by other reasons, such as using one tax invoice for several debit notes, inappropriate exchange rates, and not crossing out the tax base value in the replacement column.

Identity discrepancies occurred due to errors in filling in the TIN, name, and address mismatches with the TE confirmation letter. Serial number discrepancies were caused when the serial number used did not match that given by the DGT or multiple serial numbers were used. In addition, discrepancies in the tax invoice issuance date arose because the date preceded that of the serial number given by the DGT or the date of payment/delivery.

Discrepancies in the description of goods arose because the tax invoice did not include the number of goods, did not have an adequate explanation, and purchase details was not attached. In addition, errors in using tax invoice codes were caused by incorrect code selection, such as invoices where code 07 should have been used instead of 01. Adjustments regarding signing occurred because the signature did not match the specimen or use of a signature stamp.

The 25 decrees (83%) that fully approved the appeal requests showed that the judges based their decision on consideration that the buyer TE was able to provide documents showing that the transaction had taken place and that the VAT payable had been paid (thus meeting the material requirements). On the other hand, two decrees (7%) were partially approved because the buyer TE only provided a tax invoice and did not provide several supporting documents. The buyer TE could not provide proof of VAT payment, or the proof of payment did not match the transaction amount. Three decrees (10%) were rejected because the value of goods returned due to damage was equal to the initial value

of the goods. The judges did not believe that the stated value in the tax invoice was the actual transaction value (not fulfilling the material aspect).

Based on the analysis, it was found that tax auditors did not consider documents that could show the fulfilment of the material requirements. The adjustment was based solely on the non-fulfilment of the formal requirements in Article 13, paragraph 5 of the VAT Law. Other considerations that also became the basis for approving the buyer TE application were as follows: (a) the issuance of incomplete tax invoices was under the control of the seller TE, so it was not appropriate for the penalty to be charged to the buyer TE; (b) DGT should impose sanctions on the seller TE as the tax invoice issuer; (c) no provision requires the buyer TE to monitor the seller in the process of issuing tax invoices and depositing the collected VAT; and (d) using the legal basis in the form of Regulation of DGT (Perdirjen) and SE DGT to deny the input tax credit was not appropriate because they are not statutory regulations.

5.2. Discussion

Disputes Related to the Application of JSL through the Confirmation of Input Tax Invoices

91% of disputes were caused by tax invoices that had not been reported by the seller TE and a SKPKB or SKPKBT had not been issued by the KPP of the seller TE. If we consider KEP 754/2001, a confirmation with a "nothing" answer must be followed up with the issue of a warning letter and a SKPKB/SKPKBT by the KPP of the seller TE within one month. Therefore, there should not be a condition in which a confirmation with a "nothing" answer is sent to the KPP of the buyer TE, but the SKPKB/SKPKBT has not been issued. However, the results show the opposite case. Twenty-nine decrees elucidated that the KPP of the seller TE confirmed a "nothing" answer without issuing the SKPKB/SKPKBT. This shows that the procedure was not conducted by the KPP of the seller TE, so the mechanism for collecting and imposing sanctions on the seller TE through the issuance of a SKPKB/SKPKBT did not run optimally.

Informants PP1 and PP2 explained that the mechanism for issuing a SKPKB/SKPKBT in KEP 754/2001 was unclear, so it must be issued through a regular tax audit, and one month was considered not feasible. PP1 said:

"Yes, that is right, because the issuance of SKPKB in KEP 754/2001 does not explain in detail what the mechanism is, so the usual mechanism for

issuing SKPKB through a tax audit is conducted [...] We cannot immediately go to SKPKB."

The commentary of Article 16F of the VAT Law states that JSL is not applied if: (a) VAT can be collected from the seller TE, or (b) the buyer TE can show proof of VAT payment. KP1 confirmed that JSL is not applied if one of the conditions in letter (a) or (b) is met: *"Only one of them is fulfilled, joint and several liability do not work."* The inability of the KPP of the seller TE to issue a SKPKB/SKPKBT will result in the conditions of letter (a) never being fulfilled. Therefore, the JSL can only be aborted if the conditions of letter (b) are fulfilled, which needs to be proven by the movement test. KP1 also stated that rules for implementing JSL do not currently exist, thus creating legal uncertainty: *"Currently, the exact rules that cover the mandate of 16F do not exist."*

According to KEP 754/2001, the confirmation results need to be followed up by testing the goods and money movement if the clarification answer has not been received from the KPP of the seller TE after the stipulated time has passed. KEP 754/2001 does not explain whether a movement test needs to be conducted if the confirmation is answered with "nothing" and the SKPKB/SKPKBT has not been issued. This has led to a non-uniformity of treatment and generated uncertainty. The results confirm that only four (13%) decrees contained a follow-up to the confirmation results with a goods and money movement test. On the contrary, 87% of tax auditors made adjustments without performing such a test. The interviews conducted with the PKK informant confirm these findings:

"Frankly, this condition is rare because tax auditors only tend to use confirmation results. Testing the money and goods movement is rarely done by tax auditors. Documents like that are generally not a big concern during the audit [...]."

Based on the analysis, disputes also occurred because the supporting documents submitted by the taxpayer could not convince the tax auditor, so tax adjustments were made. Disputes regarding evidence occurred for two reasons: (a) taxpayers used lump sum payment documents, or (b) could not show the original documents, only providing photocopies. PP3 clarified that taxpayers who make payments in lump sums often find it challenging to show that VAT has been paid:

"[...] taxpayers gave the payment voucher and a stamped receipt. Nevertheless, they did not show the bank transfer document and could not explain the use of outbound funds in their checking account. Some auditors do not admit it because they cannot show definite and valid proof of VAT payment."

Meanwhile, PP4 stated that the taxpayer must be able to show the original document during the audit process to convince the tax auditor:

"Yes, there should be the original documents. If it is just the copy, it is feared the taxpayers will manipulate it."

The inability of the KPP of the seller TE to issue a SKPKB/SKPKBT as a tool for collecting VAT and imposing sanctions on the seller TE makes the sanctions disproportionate. DGT prefers to impose sanctions on the buyer TE rather than punish the disobedient seller TE. The unclear follow-up procedure on confirmation results and the absence of JSL implementation rules create legal uncertainty for taxpayers. Using lump sum payment documents and photocopies on the taxpayer's side also leads to disputes.

The results are in line with the research of Constantin (2017), which shows that the adjustment made by the tax auditor is too aggressive. Many taxpayers lose their rights to credit input tax simply because the confirmation results stated 'nothing'. Tax auditors tend to ignore that the transaction was made and that the VAT had been paid. This means the buyer TE bears the VAT burden and is forced to include it in production costs, thus violating VAT neutrality.

Disputes Related to Incomplete Input Tax Invoice Crediting

83% of 30 tax court decrees were fully approved because the buyer TE could provide documents showing that the transaction had taken place and the VAT had been paid. It appears that fulfilling the material requirements of the tax invoice in the form of the existence of transactions and the correctness of VAT payment is vital to prove whether the right to credit input tax will be lost or not. However, the analysis showed that the tax auditor did not consider the documents that could show the fulfilment of the material aspect and made tax adjustments based solely on the non-fulfilment of the formal aspect.

The interviews conducted with the PP3 informant confirmed that the tax auditor had to make adjustments because the violations of formal provisions were considered as non-compliance. Tax adjustments must be made even if the material aspects (that the transaction existed and the VAT had been paid) have been met:

"When tax auditors find a non-compliance with regulations, including formal provision, we have to make tax audit adjustments."

Furthermore, PP2 emphasized that when the formal requirements were not met, then there was no proof mechanism that the buyer TE could use:

"For formal requirement, there is no further testing. If taxpayers do not meet the tax invoice provisions, we will immediately correct it."

Interviews with KP 1 informant regarding the imposition of sanctions on the buyer TE because of the issuance of incomplete tax invoices by the seller TE indicated that the sanctions given to the buyer TE were disproportionate. The penalty was too high, 10% of the tax base, making the buyer TE lose the right to deduct input tax. However, the seller TE, as the issuer of the incomplete tax invoice, was only subject to a 1% penalty from the tax base:

"Considering the legal character of VAT, which is an indirect tax, the buyer's responsibility is greater. When an incomplete tax invoice is issued, it is more burdensome for the buyer than the seller because the missing input tax credit is equivalent to a 10% tax base, while the seller is subject to a 1% penalty."

The confirmation from KP1 regarding the absence of a provision that requires the buyer TE to monitor the seller in the process of issuing tax invoices and depositing the collected VAT shows that these provisions exist, but are not explicit:

"Oh, we did not mention that explicitly. [...] It can be credited as long as the formal and material are met. So, the scope of monitoring that we ask for implicitly is to keep an eye on the tax invoices if taxpayers want to credit them."

KP1 also stated that the provisions regarding complete tax invoices were regulated in the Perdirjen and SE DGT, which were guidance because they were too detailed when regulated in the statutory regulation as a Ministry of Finance Regulation. On the other hand, the discussions with AR informant clarified that although the *e-invoice* application had developed to version 3.0, there were still many manual procedures. Hence, the potential errors in filling in or typing that cause mismatched information in tax invoices are still wide open:

"It is still really manual. The most recent update is due to changes in all kinds of tariffs and changes to certain tax base mechanisms. However, the prepopulate feature is still the same, and there are still many manual inputs in it."

The results of this study align with de la Feria's research (2018), which shows that tax auditors made adjustments only based on the non-fulfilment of the formal requirements of the tax invoice. They continue to make adjustments if the input tax invoice credited is incomplete, regardless of whether the taxpayer has provided supporting documents/evidence or not. The absence of evidentiary procedures for incomplete tax invoices crediting adjustment; unclear provisions requiring the buyer TE to monitor the seller TE; and use of the Perdirjen and SE DJP as the basis for adjustment create legal uncertainty. The disproportionate sanctions imposed on the buyer TE and the inability of the e-invoicing technology to prevent the issuance of incomplete tax invoices by the seller TE indicate that the DGT is not yet aware of the importance of protecting the rights

of the buyer TEs. The adjustment made by the tax auditor means the buyer TE has to bear the burden of VAT, so the price of goods/services becomes uncompetitive and causes VAT to influence economic or business decisions.

6. CONCLUSION AND RECOMMENDATIONS

6.1. CONCLUSION

The analysis of 32 tax court decrees concluded that the seller TE had not reported the tax invoice and the KPP of the seller TE had not issued a SKPKB or SKPKBT, causing 91% of disputes related to the application of JSL. The interviews with the tax authority confirmed that the provision related to the issuance of a SKPKB or SKPKBT in KEP 754/2001 was not feasible. The inability of the KPP of the seller TE to issue a SKPKB/SKPKBT makes the sanctions disproportionate. DGT prioritises the imposition of sanctions on the buyer TE rather than punishing the seller TE who does not deposit the VAT that has been collected. The unclear follow-up procedure in the confirmation results and the absence of JSL implementing rules create legal uncertainty for taxpayers. In addition, the taxpayers use of lump sum payment documents and photocopies also gives rise to input VAT disputes.

The analysis of 30 tax court decrees explained that disputes over incomplete input tax invoice crediting occurred because of discrepancies in the identity of the buyer/seller, serial number, date, item description, transaction code, tax invoice signing, and other reasons such as inappropriate exchange rates. The interviews with the tax authority confirmed that tax auditors made adjustments only based on the non-fulfilment of the formal requirements of the tax invoice because the violations of formal provisions were considered to be non-compliance. The absence of evidentiary procedures, unclear provisions for the buyer TE to monitor the seller TE, and use of the guidance in the form of Perdirjen and SE DJP as the basis for tax audit adjustments created legal uncertainty. The inability of the e-invoice application to minimise errors in issuing tax invoices and the disproportionate sanctions indicate that the DGT has not prioritised the protection of the buyer TE's right.

The implication of this research is the need for improvements by DGT and taxpayers so that similar disputes can be prevented. The issuance of the Regulation of DGT Number PER-03/PJ/2022 concerning Tax Invoices, effective from April 1 2022, is in line with the purpose of this research to minimise input VAT disputes. Without improvement from both sides, the rights

to credit input tax will be lost, meaning the buyer TEs will have to bear the burden of VAT, make the price of goods/services uncompetitive, affecting economic or business decisions, and breaching the principle of VAT neutrality.

6.2. RECOMMENDATIONS

In the short term, DGT should formulate the implementation rules for JSL; raise the status of regulations often used as a basis for tax adjustment to the Ministry of Finance Regulation level; and improve the e-invoice system to minimise human error. In the medium term, DGT can conduct comparative studies of European Union countries to adopt a split payment policy, so that the buyer TE can directly deposit the VAT payable into the state treasury. Comparative studies should also be conducted in developed countries such as the UK or Australia to adopt an evidentiary procedures policy for the buyer TE who credits incomplete tax invoices due to the seller TE's fault. In the long term, DGT can implement a final VAT policy on the basis of a simplification, considering the complexity of implementing an input VAT crediting system that should match output VAT.

The buyer TEs are encouraged to properly administer all documents as proof of transactions, starting from the ordering of goods/services, to making payments, and receiving orders at the warehouse. They should avoid paying lump sums to prevent difficulties during the verification process and attempt to always show original documents in the audit process. The original document can be scanned, so a soft copy can be easily shown to the tax auditor.

The analysis in this study is limited to the loss of input tax credit rights caused by discrepancies in the results of the tax invoice confirmation made by the DGT or incomplete tax invoices credited by the buyer TEs. The sampling process was conducted from January to February 2022. Therefore, the sample was obtained before the enactment of PER-03/PJ/2022 on April 1 2022. The causes of disputes have been studied through content analysis of tax court decrees, and the results then confirmed by the tax authority through in-depth interviews. For further research, we recommend conducting interviews with the taxpayers to obtain a more comprehensive understanding.

ACKNOWLEDGEMENTS

We would like to acknowledge the support from the Directorate General of Taxes for the study and the funding provided by the Educational Fund Management Institution, Ministry of Finance.

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