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ABSTRACT

Appeal and objections cases in tax disputes are generally caused by differences in perspective between taxpayers and tax authorities in determining the right amount of profit to be allocated to multinational company groups in a particular country which can generate additional tax debts. The problem raised in this study is the existence of positive correction disputes over the payment of interest costs on sales advance due to differences in perspective on charging interest costs on sales advance and their fair price between the Taxpayer and Tax Authorities (DJP). The purpose of this research is to identify and analyze the factors that influence the occurrence of positive fiscal corrections in interest costs which in turn cause tax disputes. The method that can be used to test interest payment transactions is the Comparable Uncontrolled Price Method Furthermore, this analysis also aims to establish optimal tax management options in preventing positive fiscal corrections by the auditors. The results of this study reveal that several factors are the cause of a positive fiscal correction on interest cost transactions on a sales advance, including 1) differences in perspective between PT. XXX and DJP regarding the prevalence of interest charges on sales advance transactions, 2) completeness of items in sales advance contracts, 3) Determination of corporate risk levels, 4) differences in the use of comparators for comparability of interest cost transactions, and 5) differences in determination of fair interest rates for sales advance transactions.

Keywords: *Sales Advance, Interest Cost, Special Relationship, Tax Dispute, and Transfer Pricing.*

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1. INTRODUCTION

There are many methods used by multinational companies to shift revenue across countries to minimize their global tax burden. Among them, a tool commonly used by multinational corporations is the pricing of goods exchanged between related parties—known as transfer pricing. According to Cristea and Nguuyen (2016), transfer pricing provides an opportunity for MNCs to allocate revenue across affiliated entities in different tax jurisdictions. Through the transfer pricing mechanism, multinational companies have the opportunity to reduce the aggregate tax payable through a greater distribution of their income to countries that have lower tax rates. Another way is to distribute their operating burden which is greater in the country of operation with a large tax rate. This can be applied to service fees as well as intra-group interest payment transactions to achieve tax advantages in the aggregate of these multinational companies (Butani, 2007).

Specifically, a survey conducted by Ernest and Young (2019) described 2 types of transfer pricing transactions that had a high frequency in tax authority audit cases during 2017-2019, namely intra-group goods and services transactions (64%) and intra-group financial transactions. group (41%). The negative effects of transfer pricing practices in Indonesia are estimated to have reduced state revenues of US$ 4.86 billion per year or the equivalent of Rp. 68.7 trillion per year (Kontan, 23 November 2020).

Transfer pricing in a transaction with an affiliated company is closely related to the arm's length principle. In Paragraph 1.2 of the Commentary on Article 9 of the OECD Model (2010a) it is explained that the tax authorities may be given the authority to make corrections to company accounts that have special relationships if the tax profits do not show the actual situation and the company's transactions are not in accordance with the principle of fairness (arm's length principle).

Appeal cases and objections in tax disputes are generally caused by differences in perspective between taxpayers and tax authorities in determining the right amount of profit to be allocated to multinational company groups in a particular country which can generate additional tax debts (Vasan, 2011). The research in this case study uses a court decision at PT XXX, which is related to a positive correction dispute over payment of interest on sales advance due to differences in perspective on charging interest costs on sales advance and their fair price between the taxpayer and tax authorities (DJP). Based on the test conducted by the DJP on PT XXX's court decision for the affiliated transaction, the DJP is of the opinion that the charging of the interest costs cannot be proven to be the norm or the fairness of the price, and it is necessary to know the principle of fairness and the valuation method for the interest fees paid to affiliated companies. On the other hand, PT. XXX (taxpayer) maintains his opinion that the interest expense can be charged because it is part of the costs that must be incurred by the company to collect, obtain and maintain the continuity of the company's income from the up-front sales transaction with PT. XXX Ltd. Furthermore, there are differences in determining the fair price of interest costs between PT. XXX with DJP. Due to the difference in perspective between DJP and taxpayers, as well as very little previous research analyzing transfer pricing of interest costs on sales advance transactions, this study aims to analyze and evaluate the fairness of transfer pricing of interest costs on sales advance along with the fairness of the transfer price. The significance of this problem is the proportion of sales using the sales advance method which is more than 90% of the company's total sales or becomes very material if the interest expense transaction in the sales advance is subject to a positive correction. So that the evaluation of the application of the principles of prevalence and fairness in transfer pricing transactions is significant to be carried out in this study.

2. Literature Review

2.1. Corporate Tax Concept

The obligation of taxpayers to calculate, deposit, and report their own income tax (PPh) is the application of the self-assessment system adopted by individual and corporate taxpayers in Indonesia.

In general, the mechanism for collecting corporate income tax is carried out by first calculating taxable income. The taxable income is then calculated by multiplying the tax rate by the taxable income.

In calculating taxable income (PKP), taxpayers need to consider what costs can be charged to gross income, namely Deductible Expenses. According to Law No. 7 of 2021 Article 6, Deductible expense is a cost policy that has been regulated to reduce taxable income or gross income with the aim of obtaining, collecting, and maintaining tax income. In other words, deductible expenses can be interpreted as tax deduction costs. Costs that can be deductible expenses, namely costs related to business activities, either directly or indirectly with business activities, one of which is interest costs.

2.2. Special Relationship

Special relationships are often found in business practices, both domestically and multinationally. Fiscal authorities have different tax treatment of financial transactions from related companies compared to independent taxpayers. According to Pohan (2016), special relationships are generally formed in international business relations, or between business entities in multinational corporate networks. Economic globalization has encouraged the development of multinational scale companies. In general, multinational companies form subsidiaries with the aim of strengthening their global business base.

2.3. ARM'S LENGTH PRICIPLE

Whereas transactions between independent parties are transactions that reflect market forces and reflect the principles of fairness and customary business (arm's length principle). Given that affiliated transactions involving taxpayers and affiliated parties can be used as a tool to avoid taxes, the Director General of Taxes is authorized to examine the application of the arm's length principle to the affiliated transaction (Sentanu, 2016).

The authority of the DJP to examine the application of the arm's length principle in transactions between taxpayers and their affiliated parties (affiliated transactions) is stated in Article 18 paragraph (3) of Law no. 36 of 2008 regarding Income Tax (UU PPh) as follows:

The Director General of Taxes has the authority to redefine the amount of income and deductions as well as to determine debt as capital to calculate the amount of Taxable Income for Taxpayers who have special relations with other Taxpayers in accordance with the fairness and customary business practices that are not affected by special relationships by using the price comparison method between independent parties. resale price method, cost-plus method, or other methods (Mangoting, 2000).

2.3. TRANSFER PRICING

According to Gunadi (1994), transfer pricing is a transaction price given or charged for goods and services from one company to another company that has an affiliate relationship with that company. Other experts explain that transfer pricing is the determination of prices or compensation in connection with the delivery of goods, services, or the transfer of technology between companies that have a special relationship.

In transactions carried out between independent companies, generally only market conditions affect the financial and commercial conditions between the two, such as determining the price charged for goods or services. However, if a transaction occurs between two parties who have a non-independent relationship (special relationship), then the financial and commercial relationship of determining the price of goods or services cannot be directly influenced by market conditions in the same way, but is influenced by interests. specific to each other in the entity group.

2.4. INTEREST COST

PSAK 26 regarding loan interest defines borrowing costs as interest and other costs borne by entities in connection with borrowing funds. Several other studies have used the term Cost of Debt in describing loan interest. Martani (2012) explains that the cost of debt is the rate of return set by creditors (lenders) when channeling funding to an entity or company. Pittman and Fortin (2004) describe the cost of debt in the form of a comparison between the interest expense paid by an entity in a one-year period to the total average interest-bearing short and long-term loans during that period.

2.4. Application of the Principles of Fairness and Business Usability for Interest Payment Transfer Pricing Transactions

Intra-Group Loans are loans provided by a party in a business group to other members (Pohan, 2016). In intra-group loan transactions, the compensation given can generally be in the form of an interest rate or guarantee fee in the case of a loan guaranteed by a group company that is charged to the borrower (borrower).

Several methods that can be used in determining the fair price of a transfer pricing include the Comparable Uncontrolled Price method, the Resale Price Method, the cost plus method, the transactional net profit method, and the profit sharing method. However, the method that can be used to test interest payment transactions is the Comparable Uncontrolled Price Method.

Matters that need to be considered in determining the fairness and customary business of intra-group interest transactions include:

a. Conduct debt needs analysis;

b. Ensure that loans from affiliates actually occur;

c. Performing debt-to-equity ratio fairness tests; and

d. Conduct a fairness test of interest rates or other fees related to intra-group loans

3. Research Methods

3.1. Research Strategy

The research strategy is a general approach used in a study which is determined by the types of questions that are expected to be answered by a research study (Ellet, 2018). There are several types of strategies in research, including i) correlation research strategy, ii) experimental research strategy, iii) quasi-experimental research strategy, iv) non-experimental research strategy, and v) case study stargey. In this study, the strategy used is a case study strategy of the Evaluation type. This type of case study aims to evaluate a performance on a system that has been implemented, or the sustainability of a business or other similar evaluation. This study evaluates the fairness and prevalence of transactions conducted by research objects based on the applicable tax regulations and the views of research informants. The results of this evaluation further determine the main factors of the difference in perspective between the tax authorities and taxpayers which give rise to tax disputes. Furthermore, the purpose of using this evaluation strategy is to answer research questions regarding alternative interest cost transactions that are more effective in avoiding tax disputes.

3.2. Research Approach

The approach used in this study is a qualitative approach. In this paper, a qualitative approach was chosen because the research was not extensive and only focused on one research object, namely the dispute over the positive correction of interest expense at PT XXX. According to Guritno & Rahardja (2011), qualitative research requires researchers to have an inductive point of view. Qualitative research starts with collecting as many facts/data as possible about a phenomenon, then from the various facts that exist, principles, legal basis, certain patterns are traced, and ends with the formation of analysis and conclusions. The qualitative approach does not use hypotheses in initiating research and does not test the truth of a hypothesis. This research also does not aim to test empirical patterns. The writing of this final work uses a qualitative approach based on specific issues related to tax disputes.

3.3. TYPES OF RESEARCH

The type used in this thesis research is descriptive research. Descriptive research is research that aims to describe and describe an event or situation related to various variables that can be explained verbally or numerically. So that descriptive research does not aim to obtain a correlation between variables and does not test a hypothesis.

3.4. DATA COLLECTION TECHNIQUE

Interview

Researchers conducted interviews with 3 informants consisting of taxation academics, tax consultants, and DJP staff as data sources in a structured and in-depth manner. According to Bungin (2007:108) in-depth interviews are a process of obtaining information for research purposes by means of debriefing while face to face between the interviewer and the informant or interviewee, using an interview guide. Researchers conducted interviews with the head of the taxation division of PT XXX using interview guidelines, in order to obtain more and more in-depth data so as to strengthen the research results. In addition, the researcher sent several research questions and ask for responses/answers from the examiner (DJP) regarding several substantive and significant matters in the positive correction case at PT XXX. In addition, the researcher also asked for the opinion of tax experts in order to get a more objective and neutral view of the problems in this research case.

Table 1. Profile of Interviewees

No.	Objek Penelitian	Instansi	Narasumber	Jumlah
1	Head Office of the Directorate General of Taxes	Directorate of Objections and Appeals	Source D	1
2	Tax consultant	ABC Tax Consultant	Source L	1
3	Tax Experts / Academics	University of XYZ	Source P	1

Source: data processed

Tabel 2. Research Question Susbtance

Elements analyzed	Question substance	Reference	Responden
Factors in the occurrence of tax disputes on interest expense transactions in sales advance	a. The criteria for interest costs are deductible expenses	a. PMK 22/PMK.03/2020 (2020)	a. D b. L c. P
	b. Application of PKKU on interest expense transactions that are affected by special relationships	a. PMK 22/PMK.03/2020 (2020) b. PMK 213/PMK.03/2016 c. SE-50/PJ/2013 d. OECD (2022) e. Hadianto (2012) f. Puspanita (2015)	a. D b. L c. P
	c. Determination of the characteristics of the type of business of the Taxpayer according to FAR Analysis	a. PMK 22/PMK.03/2020 (2020) b. SE-50/PJ/2013 c. OECD (2022)	a. L b. P
	d. The prevalence of interest costs on sales advance contracts	a. PMK 22/PMK.03/2020 (2020) b. PER-32/PJ/2011 c. SE-50/PJ/2013 d. OECD (2022)	a. D b. L c. P
	e. Commonly used benchmarks for cross-border interest expense transactions	a. PMK 22/PMK.03/2020 (2020) b. SE-50/PJ/2013 c. OECD (2022)	a. D b. L c. P
	f. Relevant transaction conditions for determining a fair transfer price	a. PMK 22/PMK.03/2020 (2020) b. SE-50/PJ/2013 c. OECD (2022)	a. D b. L c. P

Elements analyzed	Question substance	Reference	Responden
	g. Consideration of risk factors in determining a fair transfer price	a. PMK 22/PMK.03/2020 (2020) b. SE-50/PJ/2013 c. OECD (2022)	a. D b. L c. P
The difference in determining the fair price of interest costs between the Taxpayer and the Auditor	a. The method of determining the transfer price of transactions, interest costs, sales advance	a. PMK 22/PMK.03/2020 (2020) b. SE-50/PJ/2013	a. D b. L c. P
	b. The value of the independent transaction price indicator as a comparison	a. PMK 22/PMK.03/2020 (2020) b. SE-50/PJ/2013 c. OECD (2022)	a. D b. L c. P
Cost transaction alternatives	a. Tax management that has been done by taxpayers on interest cost transactions	a. PMK 22/PMK.03/2020 (2020) b. SE-50/PJ/2013 c. OECD (2022)	a. L b. P
	b. Alternative types of interest cost transactions that have a low chance of being exposed to tax disputes	a. PMK 22/PMK.03/2020 (2020) b. SE-50/PJ/2013	a. L b. P

Source: data processed

Secondary data acquisition

Secondary data in this study were obtained through data collection and information obtained from references originating from various literature such as previous research journals, books, relevant legislation to serve as the basis for research development. Some of the comparative data in this study are sourced from Bank Indonesia data and banking data. Researchers also link and study domestic and international regulations, such as tax treaties, OECD Transfer Pricing Guidelines, laws, government regulations, Minister of Finance Decrees, Director General of Taxes Circulars and so on.

3.5. Data analysis technique

This study uses the triangulation method in analyzing data. Triangulation is a technique that uses other methods to check the validity of data, namely comparing and checking the credibility of information obtained through different times and means of questioning. The purpose of triangulation of sources in this study was to compare and review the results of interviews with companies as objects of research, DJP, and expert statements with the calculation of the fair price of PT XXX's interest expense in 2012 and the results of appeal dispute decisions. According to Denzin (1978), there are 4 types of triangulation, including a) data triangulation, b) investigator triangulation, c) theory triangulation, and d) methodological triangulation. In this study, the type of triangulation used is data triangulation because the triangulation process used in the data analysis process comes from interviews with organizations, DJP, tax/transfer pricing consultants, academics, relevant previous research, as well as market data that supports the justification..

4. Organization Profile

The company was originally named PT XX which was founded in 1984, which is engaged in the production and processing of palm oil. PT. XX is a family company founded with domestic investment. The capital was obtained from a loan from Bank Dagang Negara (BDN), with a loan of Rp 25 billion, plus own capital. PT. XX suffered a setback in 1991. PT. XX changed hands to a Medan entrepreneur engaged in cooking oil on October 1, 1991 and changed its name to PT.XXX. PT. XXX is a subsidiary of Karya Prajona Nelayan (KPN) which started production again in early 1992. KPN merged with a palm oil company from Malaysia in early 2006 and changed its name to PT. XXX Ltd and started going public at the end of 2006.

This change was followed by a change in the Top Manager, while the staff and employees were still the same as the company's inception. All decisions are left to the central leadership in Medan and Singapore. The main purpose of establishing PT. XXX is:

1. To meet the domestic demand for palm oil, especially cooking oil.
2. To assist government programs, especially in improving the standard of living of oil palm farmers.

5. Result and Discussion

5.1. Findings

5.1.1. Various factors in the occurrence of positive fiscal correction on the imposition of interest costs on sales advance transactions of PT. XXX with parent company

5.1.1.1. The difference in perspective between PT. XXX and DJP regarding the prevalence of imposing interest fees on sales advance transactions

Interview with interviewee D revealed her prevalence of imposing interest fees on sales advance transactions :

"*In order for expenses to be financed, it is necessary to look at Article 6 paragraph 1 of PPh where it is stated that in order to calculate taxable income, it is determined based on gross income, less costs for obtaining, collecting, and maintaining income, or 3M. If in Matching Cost against Revenue accounting, so the costs that need to be incurred to generate, get, collect, or maintain income, (3M Principles). Because this has a special relationship, it is not only the arrangement that looks at Article 6 paragraph 1 but also must follow Article 18 paragraph 3 of the Income Tax Law in parallel*."

Tax expert resource person Q:

"*That the fairness of imposing interest costs on a transaction really depends on the agreement in the sales contract. So the first thing that needs to be considered is whether or not there is an agreement on the imposition of interest fees on the sales advance transaction. The next thing to consider is the issue of the time value of money or the time value of an amount of money. »*

Tax Consultant L presented his opinion regarding the prevalence of imposing interest costs as follows:

"*In analyzing the arm's length, the first thing to consider is the test of needs, which can explain whether the fees charged are really needed in conducting a sales transaction. In this case, the imposition of interest is indeed a prerequisite for a sales advance transaction agreement, in other words XXX, Ltd will not approve this transaction if it is not accompanied by the interest fee. This is also in accordance with the accounting principle of Matching Cost Against the Revenue, right, where this interest expense will appear when there is an upfront sales transaction.*"

From the several interviews above, it could be found that the opinions of the informants are consistent with the preliminary stage in applying the principles of fairness and business practice for borrowing cost transactions that are affected by special relationships, where the loan transactions must be able to prove the substance of the loan transaction and the actual situation; required by the debtor; and can be used to obtain, maintain, and collect income in accordance with the provisions of the tax laws and regulations. On the substance side of the loan, the unearned revenue has the same substance as the liabilities earned by PT. XXX in order to fund the process of supplying, processing and shipping palm oil products to XXX, Ltd. Then from the borrower's needs side, PT. XXX has short-term working capital funding needs to fund ongoing sales contracts. This is also supported by the company's less liquid cash position

5.1.1.2. Completeness of items in sales advance contract

Based on PT.XXX sales advance contract data, it is known that the items contained in the contract are as follows:

a) Seller: PT. XXX;
b) Buyer: XXX. Ltd;
c) Commodity: according to each contract;
d) Quantity: according to each contract;
e) Specification: according to each contract;
f) Price: according to each contract;

g) Packing: In Bulk;
h) Shipment Month: according to each contract
i) Payment: Cash Against Documents/Advance Payment;
j) Other Terms:
(1) Shipped weight/shipped quality at final;
(2) The buyer shall sign and return this contract to the Seller by mail/facsimile transmission within 48 hours upon receipt. Failing to do will give Seller the sole discretion to treat this contract in good order;
(3) The original of this contract shall be sent by the Seller to the Buyer at the same day with the email/facsimile transmission. And the Buyer shall send back the Original after signed to the Seller at the latest 14 calendar days commencing the date of receipt;
(4) Other terms and conditions as per PORAM;
However, the item “other terms” does not explicitly mention the interest rate agreement that must be paid by PT.XXX to XXX.Ltd for the sales advance transaction. This is one of the reasons for DJP to reject PT.XXX's objections

This study realizes that "other terms" are not explicitly stated regarding the interest rate agreement that must be paid by PT.XXX to XXX.Ltd for the sales advance transaction. This is one of the reasons for the DGT to reject PT.XXX's objection. However, based on data from the Trade Prepayment Agreement and Audit Report for 2012, PT. XXX during the inspection process, it was discovered that PT. XXX, LTd applies the interest rate for the sales advance transaction and always periodically reviews the interest rate according to developments in market conditions (market interest rate). However, resource person, L, explained that the imposition of interest costs had fulfilled the principle of substance over form. In a sense, the substance of a transaction outperforms its formality or legality. In this case, even though the contents of the contract did not formally explain the details of the interest rate stipulated, the substance of the interest payment transaction to XXX, Ltd was the result of the imposition of interest on the upfront sale stated in the contract.

5.1.3. Determination of the company's risk level

PT. XXX conducts FAR analysis which aims to provide an overview of the functions carried out, the assets utilized, and the types of risks that could potentially arise from each transaction made by PT. XXX. Based on PT.XXX FAR analysis, the type of company PT. XXX is a limited function manufacturing company (contract manufacturer), in which the functions carried out by PT. XXX is limited to the procurement of raw material goods and the production process of finished goods.

Table 3. FAR Analysis of PT.XXX

Character Description	Limited function manufacturing (Contract Manufacturer)
Function carried out	Limited to the procurement of raw materials and the production process of finished goods
Strategic decision making	Minimum

Ability to carry out manufacturing activities	There is
Inventory management	There is
Inventory ownership	There is
Inventory risk	Minimum
Credit risk	Minimum

Source : Company, Data processed

On the other hand, The Directorate General of Taxes (DGP) in a Court Decision (2020) argued that PT.XXX bears a small risk in the market or equals to risk-free. This is based on DJP's research on the Research Result Report regarding the details of PT.XXX's sales activities in 2012 as follows :

Table 4. Company's sales volume proportion

Sales type	Affiliated Parties		Third party		Total Volume Per Ton
	Volume (Per Tonne)	%	Volume (Per Tonne)	%	
Bulk	2,258,370	97.02%	69,255	2.98%	2,327,625
Non-Bulk	139,437	99.94%	81	0.06%	139,518
Amount	2,397,807	97.19%	69,336	2.81%	2,467,143

Sources : PT.XXX, data processed

Based on the inspection report table, it is explained that the sales of PT.XXX consist of domestic sales (domestic) and exports. Overseas sales were made at 97.19%, of which 81.2% of export sales were made to the parent company, PT.XXX, Ltd. Meanwhile, domestic sales to affiliates in Indonesia (PT. WNI and PT. MNA) amounted to 4.8% of total sales. Meanwhile, domestic sales to independent parties were 2.81%. The Appellant further argued that the risk of failing to pay interest costs to PT. XXX, Ltd or the possibility of selling commodities to outside PT.XXX Ltd is very small or close to risk-free, because PT.XXX considers that 81.2% of export sales are made to affiliates (PT. XXX Ltd).

Interview with Resource Person D revealed the risk considerations in determining the fair interest rate as follows:

"*Risk considerations should also be taken into account in measuring the fairness of the interest rate charged. In this case, in my opinion, the risk is the risk of default because the characteristics of this sales advance are similar to loans. This risk factor can be included in the benchmark interest rate used, for example, SIBOR plus a premium*.".

Research interview with Consultant L explained:

"*The imposition of interest on sales advance is part of the determination of the level of risk borne by PT. XXX Ltd for the delivery of money that precedes the receipt of goods (palm oil export). For sales advances received by PT. XXX has the same* *function as a working capital loan, because the advance is used by PT. XXX to finance the procurement and processing of palm oil. For the down payment function which is equated with working capital credit, there is a risk factor that must be taken into account, namely the risk of failure to fulfill the obligation to deliver goods*."

From the several interviews above, it could be found that the opinions of the informants are consistent with the preliminary stage in applying the principles of fairness and business practice for borrowing cost transactions that are affected by special relationships, where the loan transactions must be able to prove the substance of the loan transaction and the actual situation; required by the debtor; and can be used to obtain, maintain, and collect income in accordance with the provisions of the tax laws and regulations. On the substance side of the loan, the unearned revenue has the same substance as the liabilities earned by PT. XXX in order to fund the process of supplying, processing and shipping palm oil products to XXX, Ltd. Then from the borrower's side, PT. XXX has short-term working capital funding needs to fund ongoing sales contracts. This is also supported by the company's less liquid cash position.

5.1.4. Differences in the use of comparators on the comparison of interest cost transactions

In this transaction, PT.XXX uses a comparison from the company's internal transactions to compare it with the sales advance interest expense transaction. The Company uses a comparison of interest costs for Bank BCA loan transactions in Dollar currency in 2012 which has been adjusted for an additional provision (rate).

The Appellant is of the opinion that the use of the SIBOR index will be more reliable as a comparison of the interest costs paid by PT. XXX for the following reasons:

a) internal comparators are not always absolutely more reliable referring to the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations paragraph 3.28

b) The SIBOR interest rate is strongly influenced by global economic conditions in general and economic conditions in Singapore in particular

c) the SIBOR interest rate is comparable to the interest rate that must be paid by the Appellant to XXX Pte., Ltd. because in this case there is no collateral or guarantee for the provision of advances.

d) proper use of interest in this case SIBOR, not added with a provision or premium because PT.XXX bears a relatively small risk of default / default or is risk-free

Interview with consultant L revealed the following use of the fair interest comparator:

"*After we identified the characteristics of this sales advance, which turned out to be closer to working capital loans, we used a credit benchmark from a private bank that we had in 2012, namely the working capital loan of Bank BCA in Dollar currency. The use of comparisons from domestic bank loans in USD is quite comparable, yes, because the loans we get are in USD as well as from the parent* *company*. *The money from the sales advance is used to fund short-term domestic operations, so we don't use SIBOR or LIBOR*."

The use of internal comparables is also in line with the opinion of informant P, who explains as follows:
"*Actually, the use of internal transaction comparisons can still be used as long as they have the same debt/loan characteristics as the transactions they want to compare in this case sales advance*".

Based on the results of interviews with various parties above, this research further seeks to reveal the characteristics of SIBOR that have been used by DGT as a comparison. SIBOR which stands for "Singapore Interbank Offered Bank" is a daily interest rate that is used as a reference or reference for cross-bank loans, so that this interest rate is not intended as a reference for channeling loans from banks to customers. If the SIBOR index is to be applied to the customer, then usually the SIBOR index must be added with a premium or margin (%) because there is a level of risk that must be taken into account when submitting credit to customers. So that the interest rate at the customer level should be higher than the interbank interest rate (SIBOR).

5.1.5. Differences in determining the fair interest rate on sales advance transactions

Differences in the determination of a reasonable basis for comparison ultimately lead to differences in the determination of a reasonable rate of interest that can be charged. In this case PT. XXX uses an interest rate of 2.75% with a basis for comparison of transaction costs for working capital loans of 2.85%. Meanwhile, the examiner uses the SIBOR interest without adjustment of 0.69%.

5.2 Discussion

Factor I. Differences in perspective between PT. XXX and DGT regarding the prevalence of imposing interest fees on sales advance transactions

Alll Interviews with interviewees P, L, and D share the same principle, namely the use of the matching cost against revenue principle to underlie the prevalence of interest expense transactions. So that the sales advance or unearned revenue can be compared with other interest bearing debt accounts in the liability account for the company's financial position.

The interest expense on the sales advance can be charged to the taxable income (PKP) of PT.XXX after observing that the interest expense is a condition in the contract so that PT.XXX can earn, collect, and maintain income from product sales to XXX, Ltd. . This view is supported by previous research conducted by Intan Puspanita & Danny Septriadi (2021) that to determine the prevalence of a Transfer Pricing transaction, it is necessary to pay attention to the substance over the form aspect, which in the case of this study shows that the substance of interest costs on sales advances resembles credit. working capital (KMK) so that it becomes common if interest is charged.

The application of interest costs on sales advances is also common as in the PwC (2019) regarding the application of PSAK 72 in the third stage (Determine the transaction) explains that in the significant financing component, a transaction price must be adjusted to several significant funding components contained in the agreement/contract. In assessing whether a contract contains a significant funding component, an entity needs to consider several factors, including (PwC, 2019):

- The duration of time required between the delivery of goods/services to the customer and when the customer will pay for the goods/services.
- The difference in the amount of the fee if the customer pays cash at the time the goods or services are transferred; and
- The interest rate in the contract and the prevailing interest rate in the relevant market.

Factor II. Completeness of items in sales advance contract

Implementation of complete documentation and reporting on transactions that are affected by special relationships as stated in Number PER-43/PJ/2010 is part of the taxpayer's strategy to prove the existence of these transactions, so that they can have strong enough evidence when facing audits. This is in line with research conducted by Nurhayati & Indah Dewi (2013) which explains that the obligation to keep other documents includes documents and/or additional information to support that transactions made with parties who have special relationships are in accordance with the principles of fairness and business practice.

Factor III. Determination of the company's risk level

Although the company faces a relatively small level of risk of receivable collection failure because it has a relatively large portion of sales to affiliates (97% of sales), PT. XXX continues to face this risk for sales to non-affiliated parties and domestic affiliates, considering that sales to these parties are carried out without any advance payment. So this study explains that the level of risk faced by PT.XXX is not risk-free or risk-free, but the company still faces this risk at a low level. This is different from the opinion of the Appellant which stated that PT.XXX is risk-free on the risk of bad debts, which causes PT.XXX to not charge interest on sales advance transactions.

Factor IV. Differences in the use of comparators on the comparison of interest cost transactions

Based on the results of interviews from various parties above, this study further reveals the characteristics of SIBOR which has been used by the Appellant as a comparison. SIBOR is the daily interest rate used as a reference or reference for cross-bank loans, so that the interest rate is not intended as a reference for lending from banks to customers. If the SIBOR index is to be applied to the customer, usually the SIBOR index must be added with a premium or margin (%) due to the level of risk that must be taken into account when delivering credit to customers. So the interest rate at the customer level should be higher than the interbank interest rate (SIBOR).

Regarding the selection of a Dollar currency KMK credit account at BCA bank, this is quite reasonable as the substance of the use of the advance payment is as an alternative funding for PT. XXX to finance the manufacturing process of goods ordered by XXX, Ltd, from the supply, processing (milling or refining), and shipping, considering the number of orders made by XXX, Ltd in large quantities (bulk type), so that it requires funding costs that can finance the production value upfront. Sales advances to related parties can also be an alternative for production financing needs (working capital) in large quantities with easier procedures compared to bank credit facilities in general.

5.2.2 The difference between the determination of the fair value of interest expense with the principles of Fairness and Business Practice by PT XXX and the Examiner

5.2.2.1 Determination of the fair price of interest costs by PT.XXX

Based on the FAR analysis conducted by PT.XXX, PT.XXX classifies the company as a contract manufacturer. The Company has exposure to several risks, such as inventory risk, receivable risk, and market risk, but at a relatively low level.

PT.XXX applies the CUP (Comparable Uncontrolled Price) method as a more relevant method in determining transfer prices.

PT.XXX has the view that the interest rate on the company's KMK credit facility at Bank BCA which is 2.75% which is an interest expense transaction with an independent party can be used as a comparable and reliable comparison to be used as a comparison in determining a reasonable transfer price.

5.2.2.2. Determination of the fair price of interest costs by the Appeal

Based on the analysis of the fairness and prevalence of the comparison, the examiner chose the unadjusted SIBOR index as a comparison. The SIBOR interest rate in 2012 used by the comparator, which was in the range of 0.5629% to 0.5901%, was closer to the average Singapore Government Bonds deposit rate in 2012 of 0.16%.

5.2.3. Alternative Tax Management for Interest Expense Transactions on Sales Advance

1. Conduct transfer pricing research or TP study for interest expense transactions on sales advance

2. Applying the Principles of Fairness and Business Tradition.

a) Implementation of sales advance for sales to domestic affiliates and other external parties.

b) Application of interest costs within a reasonable range for sales advance transactions with independent parties in the sales contract

c) Explicit recording of interest costs in the sales contract in advance

d) The use of banking KMK credit as a more conservative strategy

6. CONCLUSION AND RECOMMENDATION

6.1 Conclusion

1. There are several things that are the main factors in the emergence of positive corrections by the examiner on the transaction of PT. XXX include a) differences in the perspective on the prevalence of interest charges on sales advances between auditors and PT.XXX, b) Completeness of sales advance contract documents, c) determination of risk factors in sales advance transactions, d) differences in

determining appropriate comparisons for interest expense transactions , and e) determination of the reasonable range of interest costs as the basis for determining the fair price of interest cost transactions.

2. Various factors of perspective differences between the examiner and PT. XXX further raises differences in the determination of interest expense that can be charged to the company's taxable income, resulting in a positive correction that reflects the significant difference in interest expense that can be charged between the examiner and PT. XXX.

3. There are several options for treatment of interest expense transactions that are more effective to avoid future tax disputes, some of which are 1) Application of sales advance for sales to domestic affiliates and other external parties, 2) Application of interest costs with reasonable ranges to sales advance transactions with external parties in sales contracts, 3) explicit recording of interest costs in upfront sales contracts, and 4) use of KMK credit from banks as a more conservative strategy.

6.2. Recommendation

1. There are still differences in the concept of taxpayers and examiners that require more attention. The concept gap can be overcome by training or socialization for field implementers of the appealed party as well as for taxpayers to have an understanding of the concept and equal treatment of interest expense transactions arising from sales advances.

2. Taxpayers may request a joint approval procedure (MAP) to the DGT as an option for dispute resolution as described in PMK No. 49/PMK.03/2019.

3. Based on the information from the DGT, the Taxpayer should be able to further prove the existence or substance of the imposition of interest costs on sales advances and the fairness of the interest rates that meet the principles of fairness and business practice as regulated in PMK 22/PMK.03/2020 and SE-50 /PJ/2013. The ability to prove and explain the substance of interest costs will help taxpayers to avoid disputes that should not be needed so as to reduce the company's compliance costs.

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