

The Use of Mediation as Alternative Tax Dispute Resolution

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ABSTRACT

Legal remedies that can be taken by taxpayers in the event of a tax dispute by filing an objection to the objection institution located in the Directorate General of taxes. This objection is essentially a legal remedy that is outside the Tax Court to seek justice in tax disputes. The problem is that there are several weaknesses related to fairness to objection institutions in processing objections that exist today, namely: the psychological pressure on the objection reviewer, the organizational structure that is not independent, human resource management, especially the objection review team that has not been optimal. To overcome these problems alternative dispute resolution should use mediation mechanism because it can overcome the buildup of cases in court so that an effective instrument is needed because some countries such as Australia, Britain, America, Canada use mediation as an alternative to tax dispute resolution.

Keywords: *Alternative Dispute Resolution, Tax Dispute, Property*

INTRODUCTION

Humans like order, as conveyed by Soerjono Soekanto that actually humans are creatures who want to live in order, but the perspective of order owned by each individual is different. Therefore, we need an institution/organization that can harmonize the order that can be accepted by the community. The state as an organization that governs its people is given the power to impose such arrangements. One theory that explains the occurrence of a state believes

that a state is born from a community agreement that JJ. Rousseau called it the social contract. From this then an order of society is formed, which on a larger scale the society is then called the state.

There are twelve basic principles as the main pillars that support the establishment of the rule of law. These principles include the supremacy of law (supremacy of law), equality in law (equality before the law), the principle of legality (due process of law), restrictions on power, independent supporting organs, free and impartial judiciary, Administrative Court, constitutional court, protection of human rights, democratic, serves as a means of realizing the goals of the state (welfare rechtstaat), transparency and social control.

As a country based on law, the government must ensure the enforcement of law and the achievement of legal objectives, namely Justice, benefit and legal certainty. There are four things related to the meaning of legal certainty, Namely: the law is positive, meaning that it is legislation (gesetzliches), the law is based on facts (tatsachen), not a formulation of the judgment that will be carried out by the judge, such as "good will", "decency", the fact must be formulated in a clear way so as to avoid errors in meaning, in addition it is also easy to implement and positive law should not be changed frequently.

In a legal state, the term "extortion" (illegal levies) is not known, because each levy must be based on the authority granted by

the laws and regulations contained by the government together with the people (in this case the House of Representatives). Regional regulation (Perda) which regulates mandatory levies in the form of regional taxes and regional retribution (PDRD) requires the collection of funds from the community to the regional treasury. Thus, the regional regulation on PDRD becomes the norm which ensures that the collection guidelines can run.

Taxes are considered very important in a welfare state as one of the revenues to improve the social welfare of the people in the country concerned. Indonesia is one of the countries that place taxes as a source of state income. This is in accordance with the objectives of the state stated in the opening of the 1945 Constitution of the fourth alenia which reads "protecting the Indonesian nation and all Indonesian bloodshed and to promote the general welfare, intellectual life of the nation, and participate in implementing world order based on social Justice." From the description, it appears that the state needs funds for the welfare of the people. The funds that will be used are obtained from the people themselves through the collection of so-called taxes.

Taxes have two functions, namely the budgeter function and regular end function, but in its development, the tax function can be developed and added two more functions, namely the function of democracy and the function of redistribution. Budgeter function is a function that is located in the public sector, namely the function to collect as much tax money as possible in accordance with applicable law which in time will be used to finance state expenditures, namely routine expenditure and development expenditure and when there is a surplus (surplus) will be used some of the government savings for government investment. Regulatory function is a function that taxes will be used as a tool to achieve certain goals that lie outside the Financial Field. The democratic function of the tax is a function that is one embodiment or manifestation of the mutual

cooperation system, including government activities and development for the benefit of humans. Redistribution function, which is a function that emphasizes more on the elements of equality and justice in society.

Based on the law of the Republic of Indonesia Number 16 of 2009 on general provisions and Tax Procedures (UU KUP 2009), taxes are mandatory contributions to the state owed by individuals or entities that are coercive under the law, by not getting rewards directly and used for the purposes of the state for the magnitude of the prosperity of the people. meanwhile, taxpayers mentioned in the (KUP 2009 law) are individuals or entities, including taxpayers withholding taxes, and tax collectors, who have tax rights and obligations in accordance with the provisions of tax laws and regulations.

The funds needed to finance development are mainly extracted from domestic sources that have a stronger base and structure, namely taxes. On the revenue side of the country with various efforts to tax revenue *terusdikanjutkan*. Thus, the role of taxes for the implementation of state governance obligations in the field of development is becoming increasingly significant and is the key to independence for development financing.

In addition, taxes also have an important meaning in relation to economic development because taxes can be used to achieve the following goals through fiscal policy according to Jhingan are: to increase the rate of investment; to encourage optimal investment socially; to increase employment opportunities; to improve stability amid international instability; as an effort to overcome inflation; to increase and distribute national income.

The payment of taxes is a manifestation of the obligation of the state and the role and taxpayer (WP) to directly and jointly carry out tax obligations for state financing and national development. In accordance with the philosophy of tax law, paying taxes is not only an obligation, but is the right of every citizen to participate in the form of

participation in state financing and national development. Taxes are a source of state revenue that is very important for the implementation and improvement of national development to achieve prosperity and public welfare.

Evidence that the tax sector is an important sector to realize the prosperity of the people, development is needed in all aspects sourced from the National Budget (APBN), the state budget is sourced from tax payments by taxpayers, individuals, legal entities and third parties which are the main source of state financial revenue revenue of approximately 80%. Currently taxes have a significant role in the strategic portion of state revenues in the taxation sector, but it is unfortunate, the potential income from taxes owned by Indonesia has not been used properly for the welfare of the nation and state, taxes are the main source of state finance for physical and physical development in the jurisdiction of the Unitary State of the Republic of Indonesia.

In tax collection should be considered regarding the accuracy and correctness of administration and tax authorities. This is related to the emergence of dissatisfaction of taxpayers who do not want to accept the actions of the tax authorities, causing a dispute between taxpayers and tax authorities. Tax disputes are very open considering that taxpayers often argue to pay taxes that should be as small as possible even if necessary to avoid the obligation to pay taxes, while the tax authorities as collectors burdened state income from taxes that are very large.

In the section considering on Law No. 14 of 2002 on Tax Court LNRI 2002 No. 27 TLNR 14189 mentions: ...required a Tax Court in accordance with the system of judicial power in Indonesia and is able to create justice and legal certainty in the settlement of tax disputes. It's just that in the current reality whether the existence of the Tax Court has reflected the judicial power system while changing some provisions of the law both Law Number 14 of 1970 which has been amended into law Number 4 of

2004 and amended into law Number 48 of 2009 concerning judicial power and several other regulations.

The existence of the Tax Court is specifically regulated in Law No. 14 of 2002 concerning the Tax Court, which has the authority to examine and decide cases concerning tax disputes. The tax dispute in question is, among others, an appeal against the taxpayer's objection to the decision of the regional head. Article 2 regulation of the Minister of Finance of the Republic of Indonesia number 9 / PMK.03/2013 On Procedures For Filing And Resolving Objections.

Law No. 14 of 2002 on Tax Court states tax disputes as disputes arising in the field of taxation between taxpayers or tax bearers and competent tax officials as a result of the issuance of decisions that can be appealed or sued to the Tax Court based on tax laws and regulations, including claims for the implementation of collection under the tax collection law by force letter. This is stated in Article 1 Angka 5 of Law Number 14 of 2002 on Tax Court. According To R. Santoso Brotodiharjo, tax disputes occur because of tax avoidance, evasion/ extension (tax evasion), and tax evasion.

LITERATURE REVIEW

Taxes

The definition of tax is a contribution to the state owed by the payer (taxpayer) under the law by not getting the achievement (remuneration) back directly. According to Muh.Smeeth, taxes are government achievements that are owed through general and enforceable norms. Based on this definition, it can be seen that there is a term "enforceable" or a mandatory term that implies that if the taxpayer does not want to pay the tax charged to him, then the tax debt can be collected forcibly, for example by confiscation.

The benefit or use of the tax itself is to finance general expenses in connection with the duty of the state to administer the government and the welfare of the people. So the results or rewards that we get from

paying this tax cannot be obtained directly. Because the achievements given by the government are facilities and infrastructure for the public interest whose benefits can be felt by the community, such as public schools and so on. By fulfilling the obligation to pay taxes, a taxpayer as a good citizen has helped the government in financing the country's household and the country's development.

There are several characteristics of taxes, namely: taxes are levied based on applicable laws and regulations, taxes are levied by the government, both central and regional, taxes do not cause any counter-achievements from the government directly, taxes are levied to finance government spending and taxes function as regulators of the state budget. With regard to the above characteristics, the tax differs from the levy. In retribution, the payment is intended solely by the payer to obtain a certain achievement from the government, for example, payment due to the granting of a permit by the government.

Taxes can be divided into two groups, namely: direct taxes are taxes that must be borne by the taxpayer himself and not delegated to others. For example: the tax of an entrepreneur is paid from his own income or profit so that in essence this tax does not increase the price of the goods produced by that entrepreneur. Examples of direct taxes: income tax, wealth tax, household tax, corporate tax, land and building tax and so on, indirect taxes are taxes paid by the taxpayer but by the taxpayer is charged to others who buy goods produced by him. This tax can end up raising the price, since it is charged to the buyer and therefore is only paid in case of transactions that give rise to said tax. For example: sales tax, Development Tax, Stamp Duty, name change duty and so on.

Taxes are one of the sources of income of the country that are very important, so the government makes tax rules or laws. Tax law is the law that regulates the relationship between the government and taxpayers, which, among other things, explains: who is

a taxpayer, what objects are taxed, taxpayer obligations to the government, arising and writing off *pajak* debts, how to collect taxes, how to file objections and appeal to the Tax Court. In the preparation of this tax regulation, many things must be considered, including the ability of taxpayers, fairness in tax charging, the state of the country's finances, the state of the community's economy and the ways of its implementation.

In the preparation of this tax regulation, many things must be considered, including the ability of taxpayers, fairness in tax charging, the state of the country's finances, the state of the community's economy and the ways of its implementation.

The existence of taxes also involves the rights and obligations of taxpayers. The tax obligation arises after fulfilling two conditions, namely: 1) subjective tax obligation is a tax obligation that sees the person. For example: all persons or legal entities domiciled in Indonesia meet subjective tax obligations. 2) objective tax liability is a tax liability that looks at things that are taxed. For example: people for legal entities that meet wealth tax obligations are people who have certain wealth, who meet vehicle tax obligations are people who have motor vehicles and so on.

In calculating the amount used for the tax base, assistance is required from the taxpayer by filling out and entering a notification letter (SPT). Every person who has received a tax return from the tax inspection has the following obligations: 1. Fill out the tax return according to actual circumstances. 2. Sign it yourself. 3. Return the tax return to the tax inspection within the specified period.

Taxpayers must fulfill their obligations to pay taxes that have been set, at a predetermined time anyway. Against taxpayers who do not fulfill their obligations to pay taxes, direct coercion can be held, namely the seizure or auction of the taxpayer's belongings.

Meanwhile, taxpayers have the following Rights: 1. Submit a request to correct,

reduce or exempt from the tax assessment, if there is an error in writing, an error in calculating the rate or an error in determining the tax base. 2. File an objection to the head of the local tax inspection against the tax provision that is considered too onerous. 3. Appeal to the Tax Advisory Council, if the objections raised to the head of the inspection are not met. 4. Ask for a tax refund (levy), ask for a transfer of tax deposit books to other taxes, or the following year's deposit. 5. File a civil lawsuit or criminal prosecution if there is a tax officer who causes losses or divulges company /bookkeeping secrets, causing losses to taxpayers.

Tax Disputes

Disputes (Disputes, English), often referred to the same as the conflict according to Ali Achmat " dispute is a conflict between two or more parties that originated from different perceptions of an interest or property rights that can cause legal consequences for both". Based on the two definitions of the dispute above, it can be broken down into several elements, among others: 1) the existence of two or more parties; 2) the existence of the same relationship or interest to a particular object; 3) the existence of conflicts and differences in perception; and 4) the existence of legal consequences.

Disputes occur because of a conflict of interest. Therefore, along with the development of society, laws emerged that sought to minimize various conflicts of interest in society. A few centuries ago a philosopher named Cicero said, "Ubi SocietasIbi Ius" means, where there is society there is law. This statement is very appropriate because the law is functioning as a rule or norm in society. The rules or norms are the standards of behavior that are considered appropriate. Rules are useful to align the interests of each member of society. So that in society there will be no conflict of interest between members of one community and another.

According to Van Kan, human interests can collide with each other if they are not controlled by the rules, so that the rules of religion, the rules of decency and the rules of decency are born as human efforts to harmonize these interests. However, the above three rules have weaknesses: 1. The rules of religion, the rules of decency and the rules of decency are not enough to protect human interests in society because these three rules do not have strict sanctions and can be imposed. 2. The rules of religion, the rules of decency and the rules of decency have not regulated overall human interests such as human interests in the fields of land, forestry, marine, air and others.

Based on the description above, one more rule is needed that can answer the two weaknesses above. The rule is the rule of law. The rule of law has a coercive nature means that if someone violates the interests of others then he will be forced by law to compensate or even revoked the right to freedom by way of being put in prison so that the interests of others are not disturbed. Another with the three previous rules that do not have sanctions that can be imposed The rule of law also fills the weakness of the three rules, namely by trying to regulate all aspects of life related to humans as members of society and as individuals. For example, the law began to govern from the man was born until he died. The law also regulates the interests of Man / society on his land, interests in terms of Administration, rights and others. So in a complex society of interests, then the law will also balance it.

Mediation

Mediation comes from the English language, "mediation", or mediation, namely dispute resolution involving a third party as an intermediary or dispute resolution mediate. Christopher W. Moore argued that mediation is intervention in a dispute by a third party that is acceptable to the disputing party, is not part of either party and is neutral. These third parties do

not have the authority to make decisions. He is in charge of helping the warring parties to voluntarily reach an agreement accepted by each party in a dispute.

According to the formulation of Article 6 paragraph (3) of Law No. 30 of 1999 it also said that "by written agreement of the parties "disputes or disagreements were resolved through the assistance of "one or more expert advisors" or through mediators".

Thus, in principle, mediation is a way of resolving disputes outside the court through negotiations involving third parties that are neutral (non-intervention) and impartial (impartial) and accepted by the parties to the dispute. The third party is called a mediator or mediator whose job is to assist the parties to the dispute in resolving the problem, but does not have the authority to make a decision. With mediation, it is hoped that a common ground will be reached in resolving the problems faced by the parties, which will then be poured as a mutual agreement. Decision-making is not in the hands of the mediator, but in the hands of the parties to the dispute. With regard to the place of mediation, the parties can determine for themselves and choose where they want this mediation to be held. Mediation can be held anywhere in the world.

MATERIAL AND METHODS

The method of approach that will be used in this research is normative juridical approach. This approach was chosen considering that in order to achieve the research objectives/ research targets, researchers refer to the legal norms contained in legislation, Court decisions and legal norms that exist in the community and Mining Law instruments. The research approach to legislation is done by examining all laws and regulations related to legal issues to be studied, namely the normative study of the regulation of mining business activities in relation to the settlement of mining disputes.

RESULTS AND DISCUSSION

Property Ownership And Sources Of Property Law.

The right of ownership of a property is a right that makes something "belong to someone" either personally or group. This right guarantees the owner the right to do everything to the property according to his will, whether to use it or not to use it, and also transfer ownership rights. Some philosophers claim that the right to property arises from social norms. Others say that the right arises from morality or natural law.

The modern right of ownership of property contains a right of ownership and a right of possession that belongs to a legal person, even if the individual is not a real person. For example, in companies, where the company has rights equivalent to the rights of other citizens including constitutional rights, and therefore the company is called a legal entity.

The concept of national land law contains the concept of a religious communalistic nature that allows individual land tenure with rights to land that are personal, as well as containing togetherness. These properties are shown in Article 1 Paragraph (2) of the UUPA which states that the entire earth, water and space, including natural resources contained therein in the territory of the Republic of Indonesia as a gift of God Almighty is the earth, water and space of the Indonesian nation is a national wealth. As is known, that in the concept of civil rights, the right of ownership of land is a legal relationship of ownership is intrinsically recognized existence, upheld, respected, and should not be contested by anyone. The right of ownership to land is a source of life and life for its owner. Therefore, people who have legal rights must be protected by the state.

Sources of property law as real estate and buildings are regulated in laws and other Implementing Regulations, as follows:

Legality

- 1) Law No. 5 of 1960 on basic agrarian principles (Bal);

- 2) Law Of The Republic Of Indonesia Number 1 Of 2011 On Housing And Residential Areas;
 - 3) Law of the Republic of Indonesia No. 20 of 2011 on flats;
 - 4) Law Of The Republic Of Indonesia Number 28 Of 2002 On Buildings;
 - 5) Law of the Republic of Indonesia number 28 of 2009 on regional taxes and levies;
 - 6) Law Of The Republic Of Indonesia No. 18 of 1999 on Construction Services;
 - 7) Law Of The Republic Of Indonesia No. 5 of 1960 on the Basic Rules of Agrarian principles;
 - 8) Law Of The Republic Of Indonesia No. 26 of 2007 on Spatial Planning;
 - 9) Law Of The Republic Of Indonesia No. 7 year 2004 on Water Resources;
 - 10) Law Of The Republic Of Indonesia No. 8 of 2004 on the road;
 - 11) Law Of The Republic Of Indonesia No. 32 of 2009 on Environmental Protection and management;
 - 12) Law Of The Republic Of Indonesia No. 11 of 2010 on Cultural Heritage;
 - 13) Law Of The Republic Of Indonesia No. 28 of 2009 on local taxes and levies;
 - 14) Law Of The Republic Of Indonesia No. 2 year 2012 on Land Acquisition for development for the public interest;
 - 15) Law Of The Republic Of Indonesia No. 4 of 1996 on property rights;
 - 16) Law Of The Republic Of Indonesia No. 42 of 1999 concerning fiduciary guarantees.
- Other Implementing Regulations
- 1) Implementing regulations of Bal such as PP No. 10 years 1961 on Land Registration amended by PP No. 24, 1997.
 - 2) Government Regulation No. 80 Of 1999 On Ready-To-Build Areas And Stand-Alone Ready-To-Build Environments.
 - 3) Government regulation of the Republic of Indonesia number 15 of 2010 concerning the implementation of Spatial Planning which is then regulated in regulation :decree of the Minister of settlement and regional infrastructure No.534 / KPTS / M / 2001 on guidelines for the determination of minimum service standards in the field of Public Works;,, decree of the Minister of settlement and regional infrastructure No.534 / KPTS / M / 2001, Housing and Public Works.
 - 4) As the executor of law no. 18 of 1999 on Construction Services,
 - 5) Government Regulation Of The Republic Of Indonesia No. 36 of 2005 on Implementing Regulations Act No. 28 of 2002 concerning buildings, which are further regulated in the regulation of the Minister of Public Works.
 - 6) Government Regulation Of The Republic Of Indonesia No. 36 of 2005 jo PP No. 65 of 2006 which has been revised into law No. 2 Tahun 2012 on Land Acquisition for development for the public interest.
 - 7) Government Regulation Of The Republic Of Indonesia No. 11 of 2010 concerning the Control and utilization of abandoned land.
 - 8) Regulation Of The Minister Of State For Public Housing Of The Republic Of Indonesia Number 14 / Permen/M / 2006 On The Implementation Of Special Housing Areas.
 - 9) Regulation of the Minister of trade of the Republic of Indonesia number: 33/M-DAG/PER/ 8 / 2008 concerning property brokerage companies.
 - 10) Regulation of the Minister of State for public housing of the Republic of Indonesia number: 22 / PERMEN/M/2008 concerning minimum service standards in the field of public housing in provincial and Regency / city areas.
 - 11) Regulation of the Minister of Public Housing number: 02 / PERMEN/M / 2010 on the Strategic Plan of the Ministry of Public Housing year 2010-2014.
 - 12) Regulation of the Minister of State for public housing Number 16 year 2010 on technical guidance for financing

- Planning Achievement of minimum service standards in the field of public housing provincial and District / City.
- 13) Regulation on taxation : regulation of the Minister of Finance No. 78 / PMK.03/2010 concerning guidelines for calculating input tax crediting for taxable entrepreneurs who make tax payable and non-tax payable submissions; regulation of the Minister of Finance of the Republic of Indonesia number.36 / PMK.03/2007 on the limitation of simple houses, very simple houses, simple flats, Pondok Boro, student and student dormitories and other housing upon surrender are exempt from the imposition of Value Added Tax; Regulation of the Minister of Finance of the Republic of Indonesia Number 31 / PMK.03/2011 on the Second Amendment to regulation of the Minister of Finance No. 36 / PMK.03/2007 regarding the limitations of simple houses, very simple houses, simple stacking houses, Pondok Boro, student and student dormitories, and other housing, which upon its submission is exempt from the imposition of Value Added Tax.
- 14) Decree of the governor of the special Capital Region of Jakarta Nomor 1934/2002 on the provisions of the calculation of the value of liabilities for the provision of cheap / simple flat buildings converted with funds by SIPPT Holder developers.

Mediation As An Alternative Dispute Resolution In Tax Dispute Resolution

Mediation is one form of dispute resolution that can be chosen in resolving tax disputes. Mediation is a form of application of the principle of judicial trilogy that is not applied in the process of litigants in court. The emergence of this non-litigation institution is due to the disappointment of the process of things in court that never found the end point of the solution. Litigation path essentially only aims to meet the emotional desires of one of the parties

by seeing the opponent lose with the judge's decision, followed by legal remedies available, so that the right of a dispute is never ending and even backfire for the parties themselves.

In contrast to mediation which is carried out with the principle of win-win solution and deceives the parties to negotiate cooperatively in order to resolve the dispute independently mediated by a mediator. In the mediation process the decision is entirely decided by the parties, the mediator only assists in making suggestions and helps them to resolve the dispute quickly and convince them to live up to the results of the peace. With the discovery of the benefits of process mediation in solving the problems of different interests and desires, the Supreme Court then integrates mediation in the form of law No. 1 of 2016 concerning the mediation procedure in court, which is basically a further implementation of the provisions of articles 130 HIR and 154 Rbg which already determine that the judge is obliged to reconcile the parties to the dispute in advance.

After the enactment of the perma, all civil disputes submitted to the court must be resolved through the mediation procedure and if this attempt is unsuccessful, then proceed with an examination of the subject matter of the dispute. The juridical reason for the regulation of such provisions is none other than to reduce the buildup of cases in court and break the tangle of disputes that occur by conveying their respective desires so that they remain in a harmonious relationship with each other. But in the provisions of Article 4 paragraph (2), it is determined that there is an exception to this obligation for cases that have a time limit for examination such as commercial courts. Thus, the settlement of tax disputes through mediation cannot be done based on Perma No.1 year 2016.

If the collection of taxes that are not in accordance with tax provisions trigger problems and differences in calculations between taxpayers (WP) and tax authorities. The difference in the calculation makes WP

dissatisfied and ultimately leads to tax disputes. The other cause of the dispute is the lack of participation of stakeholders in the process of policy formulation and designing tax laws.

In The Law No.14/2002 on Tax Court (Tax Court law) it is stated that the resolution of tax disputes must be carried out fairly through fast, inexpensive and simple procedures and processes. In its development, the number of tax disputes has a trend that tends to continue to grow. In fact, after the tax amnesty program in 2017, the number of disputes that went to the Tax Court increased again in 2018. This is evidenced by the increase in the number of cases received by the Tax Court by 19.3% compared to 2017. Referring to statistical data released by the Secretariat of the Tax Court, the number of tax dispute files in 2018 was 11,436 cases the number of unfinished tax disputes in 2018 is not proportional to the number of decisions generated. If the remaining disputes that have not been resolved in 2017 are accumulated with the number of cases entered in 2018, the total is 23,240. However, last year, the percentage of disputes decided by the Tax Court was only 42.65%. Until the end of 2018, there were still 13,327 cases that the Tax Court had to resolve the following year.

To overcome this problem, it is better for the government to consider a legal procedure in the form of alternative Tax Dispute Resolution (ADR) conducted peacefully. Many countries in the world have tried to develop alternative dispute resolution in an effort to reduce the swift flow of cases entering the court, including America, Japan, South Korea, Australia, and Singapore . Forms of out-of-court dispute resolution, namely consultation, negotiation, mediation, conciliation, and expert appraisers.

In this case, an alternative dispute resolution that can be used as an option is mediation. Mediation is a way of resolving disputes through negotiations to obtain an agreement between the parties. The agreement also

binds the parties to the dispute. The mediation process is generally assisted by a third party commonly referred to as a neutral mediator. Unlike Court decisions that can be read by many people, the results of the mediation agreement will only be known to the WP, tax authorities, and mediators. This means that there is a guarantee of confidentiality for the processes that have been carried out. The costs incurred in carrying out mediation are not large when compared to arbitration or litigation.

When learning from Indonesian civil procedure law, the consideration of mediation is to overcome the buildup of cases in court so that an effective instrument is needed. Before the matter is brought to court, the parties to the dispute are required to mediate first. Mediation is a way of peaceful dispute resolution that is appropriate, effective, and can open wider access to the parties to obtain a satisfactory and fair settlement.

There are currently several countries that use mediation as an alternative to resolving tax disputes. Countries referred to, among others, Australia, England, America, Canada, and so forth. Generally, tax disputes are resolved through litigation in court. However, in some cases, resolving disputes in court requires a long process and is relatively expensive. Mediation is a popular solution used to resolve disputes in the field of taxation. The goal is to reduce costs incurred before the dispute goes to court.

In Australia, the Australian Taxation Office (ATO) offers tax dispute resolution, including facilitators in this case mediators and is done only for problems that are classified as large and complicated. The ATO Corporate Plan 2014-18 explains that ADR is used to reduce dispute resolution time, reduce the number of tax disputes, and create better communication between taxpayers and tax authorities. Currently, there are many disputes that are resolved without conducting a trial process.

Meanwhile, in the UK, alternative tax dispute resolution is carried out by HM Revenue & Customs (HMRC). ADR in the form of mediation has become a powerful way to resolve tax issues before the litigation process takes place. The UK has been using mediation as an alternative to resolving tax disputes since 2011. Similar to Australia, the mediation process in the UK is facilitated to reach a mutual agreement through the help of a mediator.

Law No.16/2009 on stipulation of government regulation in lieu of Law No.5/2008 on the Fourth Amendment to law no.6/1983 on General Provisions and Tax Procedures (UU KUP) has accommodated various rights WP. WP rights in question, among others, the right to obtain tax information that is not understood, data confidentiality, legal certainty over the amount of tax payable, and others. In terms of obtaining legal certainty, WP has the right to obtain certainty of information on the amount of tax payable.

The secretariat of the Tax Court showed that the number of dispute files after the tax amnesty had increased. The number of Tax Court decisions that come out is not comparable to the number of disputes that continue to enter the court. Moreover, the changing tax landscape both domestically and globally is expected to create a tsunami of dispute. Therefore, as a preventive measure, Indonesia needs to be prepared to face these conditions.

In the context of parties who can be mediators, we also need to consider the role of the tax Supervisory Committee. Moreover, in the regulation of the Minister of Finance No.63 / PMK.09/2016 on amendment to regulation of the Minister of Finance No.54/PMK.09/2008 of the tax Supervisory Committee has arranged the mediation. The role of the tax ombudsman in mediation has also been implemented in several countries, for example Prodecon in Mexico. Mediation is expected to create a more effective and efficient dispute resolution process and can reduce the number of Appeals and lawsuits filed in the

Tax Court. If there is already mediation, the settlement mechanism through the Tax Court remains an important element that must continue to be addressed in the future.

CONCLUSIONS

In the source of law and the rules of implementation have some different rules against property law but in the legal settlement method consists of dispute resolution through litigation and non-litigation, namely through a formal mechanism in court and outside the court with arbitration mechanisms and Alternative Dispute Resolution in the form of negotiation, conciliation, and mediation. The legal step that can be taken for that is to file a civil lawsuit at the Commercial Court and conduct a prosecution sentence at the General Court. Mediation as an Alternative Dispute Resolution in the settlement of property disputes performance its implementation is specified in the legal sources related to the property already mentioned. Mediation offered to the disputing party is not a form of mediation in the court as stipulated in Perma No.1st. 2016, but voluntary mediation conducted by the parties outside the court which requires a reliable and competent mediator.

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