# TAX COURT DECISION
# PUT-000726.99/2020/PP/M.IVA 2021

## TAX TYPE
VAT & PPnBM

## YEAR/TAX PERIOD
March 2018

## SUBJECT OF DISPUTE
The Defendant defended the Underpayment Tax Assessment Letter for Value Added Tax of Goods and Services Number 00005/207/18/202/19 dated June 28, 2019 meaning that he agreed to calculate the underpaid VAT for the March 2018 period of Rp.104,987,710.00 in other words, agreed that the VAT SKPKB The March 2018 period **arose due to the delivery of fertilizers** to farmers even though the Plaintiff was not a producer

**The Tax Court examines and decides** on tax disputes with the Ordinary Procedure at the first and last level, against the Lawsuit on the Decision of the Director General of Taxes Number KEP 03513/NKEB/WPJ.27/2019 dated 18 December 2019 concerning Cancellation of Tax Assessments on Tax Underpayment Assessment Letters Value Added Goods and Services Based on Article 36 Paragraph (1) Letter B Due to the March 2018 Taxpayer's Application Number 00005/207/18/202/19 dated 28 June 2019, which is registered in the case file Number **000726.99/2020/PP** has taken the following decisions in disputes between:

**CV Prima Agro Lestari,** NPWP 31,525.646.1-202,000, having his/her address at Simpang Empat Village, Pasaman District. West Pasaman, West Sumatra, in this case represented by Sudirman, position: Director of CV Prima Agro Lestari, based on the Deed of Dissolution of the Limited Liability Company "CV Prima Agro Lestari (PAL)" Number 347 dated 20 April 2018 drawn up before Jayat, SH, M .Kn., Notary in West Pasaman Regency, and authorizes:

No : Ikhwan Ashadi, SE, MM, M.Ak. CA., BKP.,
Department : Legal Authority,
Power of Attorney Number : 003/PAL/VI/20 dated 15 June 2020,

hereinafter referred to as **P e ng g gu g a t ;**

**OPPOSE**

**The Director General of Taxes is domiciled** at Jalan Jenderal Gatot Subroto, Kavling 40-42, Jakarta, **in this case represented by :**

1. Name/NIP : Kings Antoni/197407071995111001
   Department : Objection Reviewer
   Organizational Unit : Directorate of Objections and Appeals

2. Name/NIP : Edy Triyanto/197908102001121001
   Department : Objection Reviewer
   Organizational Unit : Directorate of Objections and Appeals

based on the Assignment Letter Number ST-9368/PJ.07/2020 dated July 30, 2020, hereinafter referred to as the **Defendant ;**

The Tax Court:

Having read the Decree of the Head of the Tax Court Number PEN-244/PP/BR/2020 dated March 23, 2020 *in conjunction with* PEN-025/PP/PrbSM/2020 dated July 13, 2020;

Having read the Lawsuit Number 03/CV.PAL/I/2020 dated January 16, 2020;

Having read the Defendant's Response Letter Number S-579/WPJ.27/2020 dated March 3, 2020; Having heard the testimony of the disputing parties and witnesses/members/translators in the conference;

Having read and examined written evidence and other letters submitted by the parties who were presented at the trial;

## ABOUT SITTING DISPUTE

Considering, whereas the Plaintiff has issued an Underpayment Tax Assessment Letter for the Value Added Tax of Goods and Services for the March 2018 Tax Period Number 00005/207/18/202/19 dated 28 June 2019 issued by the Defendant, with the following calculations:

| No. | Uraian | | Penggugat (Rp) | Tergugat (Rp) |
|---|---|---|---|---|
| 1 | Pajak yang harus dibayar/ditagih kembali | | | 86.055.50 |
| 2 | Telah dibayar | | | |
| 3 | Kurang Dibayar (1 - 2) | | | 86.055.50 |
| 4 | Sanksi Administrasi: | | | |
| | a. | Bunga Pasal 13 (2) KUP | 0 | 18.932.21 |
| | b. | Kenaikan Pasal 13 (3) KUP | 0 | |
| | c. | Bunga Pasal 13 (5) KUP | 0 | |
| | d. | Kenaikan Pasal 13A KUP | 0 | |
| | e. | Kenaikan Pasal 17C (5) KUP | 0 | |
| | f. | Kenaikan Pasal 17D (5) KUP | 0 | |
| | g. | Bunga Pasal 13 (2) KUP jo. Pasal 9 (4f) PPN | 0 | |
| | h. | Jumlah sanksi administrasi (a + b + c + d + f + g) | 0 | 18.932.21 |
| 5 | Jumlah yang masih harus dibayar (3 + 5.h) | | 0 | 104.987.71 |

*Considering, whereas based on the a quo* Underpayment Tax Assessment , the Plaintiff filed for Reduction or Cancellation of the Incorrect Tax Assessment Letter Number 003/PAL/VIII/2019 dated August 8, 2019 and with the Defendant's Letter Number KEP-03513/NKEB/WPJ. 27/2019 dated 18 December 2019, the Plaintiff's application was rejected, so with Letter Number 03/CV.PAL/I/2020 dated 16 January 2020 filed a lawsuit;

## Plaintiff's ARGUMENT IN LAWER LETTERS

The Plaintiff in the Lawsuit Number 03/CV.PAL/I/2020 dated January 16, 2020, principally stated the following matters:

### FULFILLMENT OF THE FORMAL PROVISIONS OF SUBMISSION OF CLAIMS (in the Letter of Claim)

that the Plaintiff filed a lawsuit based on the provisions of Article 23 paragraph (2) of Law Number 6 of 1983 concerning General Provisions and Tax Procedures as amended several times, most recently by Law Number 16 of 2009 (KUP Law), namely filing a lawsuit against the Defendant's Decision Number KEP 03513/NKEB/WPJ.27/2019 dated December 18, 2019 concerning Cancellation of Tax Assessment on Tax Assessment Letter of Underpayment of Value Added Tax of Goods and Services Based on Article 36 Paragraph (1) Letter B Due to the Taxpayer's Application;

that the fulfillment of the provisions of Article 40 of the Tax Court Law:

a. This Claim Letter is made in Indonesian and addressed to the Tax Court;

b. The Claim Letter is submitted within 30 (thirty) days of receiving the Defendant's Decision Number KEP-03513/NKEB/WPJ.27/2019 dated 18 December 2019, which was

received by the Plaintiff on 23 December 2019;

c. 1 (one) Decision of the Director General of Taxes is filed 1 (one) Lawsuit;

that the fulfillment of the provisions of Article 14 of the Tax Court Law:

a. that the Claim Letter was signed by Sudirman, the position as Director as evidenced by Deed Number 138 Notary Yayat, SH, M.Kn. April 25, 2012;

b. The lawsuit is filed with clear reasons as will be described in the next section; c. A copy of the contested decision has been attached to the Letter of Claim;

that therefore the lawsuit filed by the Plaintiff against the Defendant's Decision Letter Number KEP 03513/NKEB/WPJ.27/2019 dated 18 December 2019 has complied with the formal provisions as required in the KUP Law and the Tax Court Law;

**CONCERNING THE OBJECT OF THE LAW ( in the Letter of Claim)**

that the Plaintiff has received the Defendant's Decision Letter Number KEP-03513/NKEB/WPJ.27/2019 dated 18 December 2019 issued by the Defendant;

that based on the Defendant's Decision Letter Number KEP-03513/NKEB/WPJ.27/2019 dated 18 December 2019, the Plaintiff has submitted an application for Reduction or Cancellation of the Incorrect Tax Assessment Letter based on the provisions of Article 36 paragraph (1) Letter B of Law Number 6 of 1983 concerning General Provisions and Tax Procedures as amended by Law Number 16 of 2009 to the Defendant through Letter Number 003/PAL/VIII/2019 dated August 8, 2019 which basically the Plaintiff did not agree with the issuance of the Defendant's Decision Number KEP- 03513/NKEB/WPJ.27/2019 dated 18 December 2019 above;

that based on the Plaintiff's letter, the Defendant has issued the Defendant's Decision Number KEP 03513/NKEB/WPJ.27/2019 dated 18 December 2019 which rejected the Plaintiff's Application;

**CONCERNING THE PRINCIPLES OF THE DISPUTE AND THE REASONS OF THE GUGA TAN (in the Letter of Claim)**

that the Defendant maintains the Tax Assessment Letter of Underpayment of Value Added Tax of Goods and Services Number 00005/207/18/202/19 dated June 28, 2019 means agreeing to the method of calculating the Underpaid VAT for the March 2018 period of Rp.104,987,710.00 in other words agreeing that the SKPKB VAT for the March 2018 period was **caused by the delivery of fertilizer** to farmers even though the Plaintiff was not a producer;

whereas according to the Plaintiffs, the Plaintiffs did not collect VAT on farmers because the Plaintiffs acted as distributors, **not producers** , which therefore did not collect taxes on farmers. This is in accordance with the Regulation of the Minister of Finance Number 62/PMK.03/2015 dated March 26, 2015 concerning Other Values as the Basis for Tax Imposition and Other Times of Making Tax Invoices on the Delivery of Certain Fertilizers for the Agricultural Sector;

**Article 2 paragraph (3)**

(3) **The collection of the Value Added Tax from the Tax Imposition Basis as referred** to in Article 4 by using the Other Value as referred to in Article 3 paragraph (2) is carried out by KPA (Budget User Authority) at the time of payment of the subsidy by way **of direct deduction from producer bill** on the relevant SPM (Payment Order);

**Article 9 paragraph (1) and paragraph ( 2 )**

(1) On the delivery of certain fertilizers for the agricultural sector by distributors and retailers, it is not necessary to collect Value Added Tax;

(2) Distributors and retailers whose business is solely to deliver certain fertilizers for agricultural deposits, do not need to be confirmed as Taxable Entrepreneurs (PKP);

that so the Defendant issued an incorrect determination in approving the amount of the Tax Assessment Letter for Underpayment of Value Added Tax of Goods and Services Number 00005/207/18/202/19 dated 28 June 2019 March 2018 Tax Period amounting to Rp104,987,710.00;

**Plaintiff's CONCLUSION AND PROPOSAL (in the Letter of Claim)**

that based on the explanation and description above, the Plaintiff concludes:

1. that the Claim Letter has complied with all the formal provisions for filing a lawsuit as regulated in Article 23 of the KUP Law and Articles 40 and 41 of the Tax Court Law;
2. that the Defendant maintains the Tax Assessment Letter of Underpayment of Value Added Tax of Goods and Services Number 00005/207/18/202/19 dated June 28, 2019 means agreeing to the method of calculating the Underpaid VAT for the March 2018 period of Rp.104,987,710.00;
3. that in other words, the Defendant agrees that **the distribution of fertilizer by the distributor to the farmer is subject to VAT ;**

that furthermore, the Plaintiff proposes to the Honorable Tax Court Judges that:

1. Stating that the lawsuit filed by the Plaintiff is acceptable because it has complied with all formal provisions;
2. The Plaintiff did not collect VAT on the delivery of fertilizer to farmers because the Plaintiff acted as a distributor, not a producer, this was in accordance with the Regulation of the Minister of Finance Number 62/PMK.03/2015 dated March 26 2015, Article 9 paragraphs (1) and (2); VAT is collected at the producer level using another value at the time of delivery to the distributor. This is in accordance with the Regulation of the Minister of Finance Number 62/PMK.03/2015 dated March 26 2015, Article 2 paragraph (3);
3. The Defendant used an incorrect calculation in approving the amount of the Value Added Tax Underpayment Assessment for Goods and Services Number 00005/207/18/202/19 dated 28 June 2019 March 2018 Tax Period amounting to Rp104,987,710.00;
4. Whereas based on the Plaintiff's description above, the Defendant's Decision Number KEP 03513/NKEB/WPJ.27/2019 dated 18 December 2019, was not stipulated in accordance with applicable regulations, so according to the Plaintiff, the Plaintiff is not owed VAT for the March 2018 period;

that this litigation letter is submitted with the hope that the Panel of Judges of the Tax Court who examines and hears this dispute can decide with the fairest consideration;

that in its lawsuit, the Plaintiff attaches the following documents:

Proof P-1 Photocopy of Defendant's Letter Number KEP-03513/NKEB/WPJ.27/2019 dated December 18, 2019, regarding Cancellation of Tax Assessment on Tax Assessment Letter of Underpayment of Value Added Tax on Goods and Services Based on Article 36 Paragraph (1) Letter B Due to the Taxpayer's Application;

Proof P-2 Original Special Power of Attorney Number 10/CV.PA L/1/2020 dated January 16, 2020 on behalf of Ismy Latifah, SE, CA., M. S i.;

Proof P-3 Photocopy of Identity Card (KTP) and NPWP on behalf of Sudirman; Proof P-4 Photocopy of Identity Card (KTP) in the name of HJ. Ismy Latifah, SE, Ak., M.Sc.;

Proof P-5 Photocopy of Plaintiff's Letter Number 003/PAL/VIII/2019 dated August 8, 2019 concerning

Application for Reduction or Cancellation of Incorrect Tax Assessment Letters;

Proof P-6 Photocopy of SKPKB of VAT on Goods and Services for the March 2018 Tax Period Number 00005/207/18/202/19 dated 28 June 2019;

Proof P-7 Photocopy of the stamped deed of Dissolution of Limited Liability Company "CV Prima Agro Lestari (PAL)" Number 347 dated 20 April 2018 drawn up before Jayat, SH, M.Kn., Notary in West Pasaman Regency;

Proof P-8 Photocopy of the Limited Liability Company Deed "CV Prima Agro Lestari" (PAL) Number 138 dated 25 April 2012 drawn up before Jayat, SH, M. Kn., Notary in West Pasaman Regency;

Proof P-9 Photocopy of the Regulation of the Minister of Finance Number 62/PMK.03/2015 dated March 26, 2016 concerning Other Values as the Basis for Tax Imposition and Other Times of Making Tax Invoices on the Delivery of Certain Fertilizers for the Agricultural Sector; Proof P-10 Original Integrity Pact stamped in the name of Ismy Latifah, SE, CA., M.Sc.;

## RESPONSE REPRESENTED IN RESPONSE LETTER

The Defendant in Response Number S-579/WPJ.27/2020 dated March 3, 2020 basically stated the following matters:

**F ORMAL PROVISIONS FULFILLMENT (in Response Letter)**

that based on research on the Plaintiff's Claim Application Letter Number 03/CV.PAL/1/2020 dated January 16, 2020 which was received by the Tax Court on January 20, 2020, it is known that the following matters:

that the lawsuit is filed with a lawsuit in Indonesian to the Tax Court;

that the lawsuit is filed **after a** period of 30 (thirty) days from the date of receipt of the

letter being sued; that against 1 (one) object of lawsuit filed 1 (one) Letter of Claim;

that the lawsuit is filed with clear reasons and includes the date it was received, the Decision Letter/other object of the lawsuit received on December 23, 2019;

that the Claim Letter is accompanied by a copy of the document being sued, namely Letter Number KEP 03513/NKEB/WPJ.27/2019 dated December 18, 2019 concerning the Decree of the Director General of Taxes concerning Cancellation of Tax Assessments on Tax Assessment Letters of Underpayment of Value Added Tax of Goods and Services based on Article 30 Paragraph (1) Letter B Due to the Taxpayer's Application;

that the Claim Letter was signed by the Plaintiff, namely Sudirman, with the position of Director;

that based on the description above:

a. The plaintiff's application **does not meet** the formal provisions as stipulated in Article 23 and Article 32 of Law Number 6 of 1983 concerning General Provisions and Tax Procedures as amended several times, most recently by Law Number 16 of 2009 and Article 40 paragraph (1), paragraph (2), and paragraph (3) as well as Article 41 of Law Number 14 of 2002 concerning the Tax Court, so that it cannot be considered further;

b. Letter Number KEP-03513/NKEB/WPJ.27/2019 dated December 18, 2019 regarding the Defendant's Decision on Cancellation of Tax Assessment on Underpayment of Value Added Tax on Goods and Services Based on Article 36 Paragraph (1) Letter B Because the Taxpayer's Application was sent by the DGT Regional Office of West Sumatra and Jambi on December 19, 2019, received by the Plaintiff on December

23, 2019 and filed a lawsuit directly to the Tax Court on January 20, 2020;

c. Article 40 paragraph (3) of Law Number 14 of 2002 concerning the Tax Court stipulates that the period for filing a lawsuit against a decision other than a lawsuit as referred to in paragraph (2) is 30 (thirty) days from the date of receipt of the decision being sued;

d. In accordance with the provisions of Article 1 number 12 of Law Number 14 of 2002 concerning the Tax Court, "date of receipt" is the date of the postal stamp of delivery, the date of the facsimile, or in the case of being received in person, the date when the letter, decision, or decision is received directly. ;

e. Based on the provisions in Article 1 number 12 and Article 40 paragraph (3) of Law No. 14 of 2002 concerning the Tax Court, the 30 (thirty) days deadline from the date of receipt of the decision falls on January 17, 2020, so that the Plaintiff's lawsuit is dated January 17, 2020. January 20, 2020 does not meet the formal requirements. However, if the Assembly has a different opinion and considers further the Plaintiff's litigation letter, the Defendant submits a description of the original determination and decision on the Application for Reduction or Cancellation of the Tax Assessment Letter for Underpayment of Value Added Tax on Goods and Services based on Article 36 paragraph (1) letter b, analysis of the main dispute along with the conclusions and proposals in the next section of this Response Letter to the Lawsuit to be used by the Tribunal for consideration;

**DESCRIPTION REGARDING THE OBJECT OF THE LAWSUIT AN (in the Response Letter)**

that Letter Number KEP-03513/NKEB/WPJ.27/2019 dated December 18, 2019 concerning the Defendant's Decision on Cancellation of Tax Assessment on Tax Assessment Letter of Underpayment of Value Added Tax of Goods and Services Based on Article 36 Paragraph (1) Letter B Due to the Taxpayer's Application issued based on Research Report Number LAP-4695/WPJ.27/2019 dated December 16, 2019 which was made in order to complete the application for reduction or cancellation of the Tax Assessment Letter of Underpayment of Value Added Tax of Goods and Services Number 00005/207/18/202/19 dated 28 June 2019 for the March 2018 tax period submitted by the Plaintiff through Letter Number 003/PAL/VIII/2019 dated August 8, 2019;

**DESCRIPTION OF LETTER OF LAW (in Response Letter)**

*that the Plaintiff filed a lawsuit on the grounds as stated in the a quo* lawsuit ;

**RESPONSE TO CLAIMS (in Response Letter)**

that after reading the lawsuit, studying the existing correspondence and documents, hereby submit a response to the lawsuit from the Plaintiff as follows:

LEGAL BASIS

**Law**
**Number 6 of 1983 concerning General Provisions and Tax Procedures as has been amended sever al times , most recently by Law Number 1 6 of 2009**

Article 1 number 10
*Accurate taxes are taxes that must be paid at one point in time , in the tax period , in the tax year , or in the tax year . _ _ _ _ _ _ _ _ _ _ Fiscal Year in accordance with the provisions of the legislation and p e rp a j a k a n*

Article 1 number 25
*The examination is a series of activities with respect to and processing of skills , abilities ,*

*and _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ / or proof of t i that is treated by puppies se c o b e e k t i ve and professional manner based on an audit standard to test compliance with tax obliga tions and / or for tax purposes _ _ _ _ _ _ _ _ _ _ _ _ _ a i n in the context of implementing the provisions of the regulations of peru nd a n g - u n d a n g a n pe r p a j a k a n ; _*

Article 12 paragraph (1)

*The total tax payable according to the tax return submitted by the taxpayer is the total tax payable in accor dance with the provisions _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ pe r a tu r a n pe ru n and g _ _- lease agreement ; _ _ _ _ _ _ _ _*

Article 12 paragraph (3)

*If the Director General of Taxes obtains evidence that the amount of tax payable according to the order of t he notification letter as referred to in paragraph ( 2 ) is not correct _ _ _ , then Director J e n d e r a l Pa ja _ k determine the amount of tax payable;*

Article 13 paragraph (1)

*Within five years following the time the tax is due , or the end of the Tax Period , Part of the Tax Year or Ta x Year , D i _ _ _ _ _ _ _ _ _ _ _ _ _ _ r e k tu r General P invites d a p to issue a Letter of Intent in matters a s follows : _ _ _ _ _ _ _ _ _*

*i. if based on the results of the examination or other information it turns out that the amount of tax owed is underpaid or unpaid;*

*ii. if the Notification Letter is not submitted within the period as referred to in Article 3 paragraph (3) and after being reprimanded in writing it is not delivered on time as specified in the Warning Letter; iii. if based on the results of the examination regarding the Value Added Tax on Goods and Services and Sales Tax on Luxury Goods, it turns out that the excess tax difference should not be compensated for, should not be subject to a 0% (zero percent) rate, or should not be given a tax refund;*

*iv. if the obligations are not fulfilled , as stated in Article 28 and Article 29 , then it will not be known _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ the amount of tax that is owed ; _ _ _*

Article 13 paragraph (2)

*The number of tax shortfalls owed in the Stipulation Letter invites all of* the *matters referred to in paragraph ( 1 ) letter a plus sanctions i a d m i _ _ _ _ _ _ _ _ _ _ _ _ _ n i s t r a s i in the form of flowers as big as r 2 % (two percent) a month for a maximum of twenty-four months , calculated from the time the tax is due or the end of the Tax Period , Part of the Invoking Year or the Invoking Year until the issuance of the Tax Assessment Letter ; _ _*

Article 29 paragraph (3)

*It is mandatory for P to invite those who are examined , wa ji b :*

*i. show and/or lend books or records, documents on which they are based, and other documents related to income earned, business activities, free work of the Taxpayer, or objects that are tax payable;*

*ii. giving the opportunity to enter a place or space deemed necessary and providing assistance for the smoothness of the inspection; and/or*

*iii. provide other necessary information ; _ _ _*

Article 36 paragraph (1) letter b

*The DGT invites because of the position or at the request of the Taxpayer to draft or cancel an incorrect ta x assessment letter ; _ _ _ _ _ _ _*

**Law Number 8 of 1983 concerning Value Added Tax on Goods and Services and Sales Tax on Luxury Goods as amended several times by Law Number 18 of 2000 ,** states:

Article 4

*Value Added Tax is subject to : _ _ _ _ _ _*

*a. delivery of the Taxable Goods in the Customs Area by the Entrepreneur;*

*b. import of Taxable Goods;*

*c. delivery of Taxable Services within the Customs Area by Entrepreneurs;*

*d. utilization of intangible Taxable Goods from outside the Customs Area within the Customs Area; e. utilization of Taxable Services from outside the Customs Area within the Customs Area; or f. export of Taxable Goods by Taxable Entrepreneurs ;*

*_ _ _ _ _ _ _ _*

**Law Number 14 of 2002 concerning the Tax Court (hereinafter referred to as the Tax Court Law)**

Article 1 number 7

*A lawsuit is a legal remedy that can be made by a taxpayer or tax insurer against the implementation of tax collection or against a decision that can be filed The lawsuit is based on the regulations of the Republic of Indonesia and the law enforcement age ncies under my law; _ _ _ _ _ _ _ _ _ _*

Article 40 paragraph (1)

*The lawsuit is submitted in writing in Indonesian to the Tax Court ;*

Article 40 paragraph (2)

*The period for filing a lawsuit against the tax collection application is 1 4 ( fourteen ) days from the date of t he implementation of the tax collection . _ _ _ _ _ _ _ _ _ _ _ e n ag i h a n ;*

Article 40 paragraph (3)

*The time for filing a lawsuit against a decision other than the lawsuit as referred to in paragraph ( 2 ) is 30 ( thirty ) days from the date it was received _ a to p the decision i gu ga t ;*

Article 41 paragraph (1)

*The time period for filing a lawsuit against a decision other than the lawsuit as referred to in paragraph ( 2 ) is 30 ( thirty ) days from the date of this _ ream a k e broken t t t ; _ _ _ _ _ _*

**Regulation of the Minister of Finance of the Republic of Indonesia Number 8/PMK.03/2013 concerning Procedures for Reduction or Elimination of Administrative Sanctions and Reduction or Cancellation of Tax Assessment Letters or Tax Collection Letters ,** regulates:

Article 13 paragraph (1)

*A tax assessment letter that can be deducted or canceled based on a Mandatory Request for Invitation as referred to in P origin 2 letter b is a tax determination letter that is not _ r , except for the Letter of Decree P invites less payment _ which is published based on the provisions of Article 1 3 A of the KUP Law ; _ _ _ _ _ _ _ _*

Article 13 paragraph (2)

*Invalid tax assessment letter which can be deducted based on the applicant 's request for taxation as refer red to in paragraph ( 1 ) includes a tax assessment letter which _ _ _ _ _ _ _ j u m l a h the taxes are not true _ _ _ r;*

Article 13 paragraph (3)

*Incorrect tax assessment letter which can be invalidated based on the fact that it is a taxpayer 's applicatio n _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ a n a is meant p a da a y at ( 1) cover a tax assessment letter which should not have been included ; _ _ _ _ _ _ _ _ _ _ _ _ _*

**Per Rule of M e n t er i of Finance No. 1 7 / P M K . 0 3 / 2 0 1 3 concerning Audit Procedures as amended by the Regulation o f the Minister of Finance No m o r 184 / PMK . _ _ _ _ 0 3 / 2 01 5 ,** set:

Article 3

*The audit room to test compliance with tax compliance obligations can cover one of these areas , such as _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ e r a p a , a tau s e all tax forms , either for one or several tax periods , for tax years , or tax years in _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ - both the year and the current year ; _ _ _*

Article 8 letter c

*The implementation of audits to test compliance with tax compliance requirements must be carried out in a ccordance with audit procedures , namely : _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ e m u a n the results of the examination must bebased on sufficient competent evidence and based on the provisions of Russian a nd foreign regulations and government regulations ; _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _*

**Regulation of the Director General of Taxes NUMBER P E R - 2 3 / P J / 2 0 1 3 concerning Audit Standards ,** regulates **:**

Article 4 letter c

*The findings of the examination results must be based on sufficient competent evidence and based on the provisions of the regulations _ _ _ _ _ _ _ _ _ _ p e rp a j a k a n ; 1. Evidence of competence is valid and relevant , while still taking into account the principles of fairnes*

*s and the prevalence of business on people's lives _ _ _ _ _ _ _ _ _ b P invite those wh o have a relationship _ _ _ _ special;*

*a) Valid means that the evidence is reliable to infer a fact. The level of validity of the evidence is influenced by 3 (three) points as follows:*

*i. Independence and qualification of sources for obtaining evidence;*
*Evidence obtained from independent parties has a higher level of validity than evidence obtained from non-independent parties. In addition to independence, it is also necessary to pay attention to the relationship of the party providing the evidence with the evidence provided;*

*ii. The condition of the evidence obtained. The level of difficulty in obtaining evidence that is influenced by the situation and/or conditions can be considered in determining the level of validity of the evidence;*

*iii. The manner in which evidence is obtained;*
*Evidence obtained directly by the Tax Inspector (e.g. observation) has a higher level of validity compared to n g s u n g s u n g ( for example ,* the *evidence provided by the Taxpayer ) . _ _ _ _ _ The method of obtaining evidence must also be _ _ rha t i k a n l e g a li t a s way per o l e h a n b u k t i ;*

*b) Relevant means that the evidence must relate to the items to be examined as listed in the Exa mination Program ; _ _ _ _ _*

*2. Sufficient evidence is sufficient evidence to support the findings of the examination . _____ judgment) Tax Auditor;*

ACCUSED RESPONSE

that the Defendant issued Letter Number KEP-03513/NKEB/WPJ.27/2019 dated December 18, 2019 concerning the Defendant's Decision on Cancellation of Tax Assessment on Tax Assessment Letter of Underpayment of Value Added Tax on Goods and Services Based on Article 36 Paragraph (1) Letter B Due to the Application Taxpayer based on Research Report Number LAP-4695/WPJ.27/2019 dated December 16, 2019 which was made in order to complete the application for reduction or cancellation of the Tax Assessment Letter of Underpayment of Value Added Tax of Goods and Services Number 00005/207/18/202/19 dated 28 June 2019 March 2018 tax period submitted by the

Plaintiff through letter Number 003/PAL/VIII/2019 dated 8 August 2019 which was received by the Defendant with receipt (LPAD) number PEM: 01002829\202\aug\2019 dated 9 August 2019;

whereas the Plaintiff's reason in his litigation letter essentially stated that the Plaintiff did not collect VAT on the delivery of fertilizer to farmers because the Plaintiff acted as a distributor, not a producer. According to

the Plaintiff, this is in accordance with the provisions of the Regulation of the Minister of Finance Number 60/PMK.03/2015 Article 9 paragraphs (1) and (2). VAT collection should be carried out at the producer level using another value at the time of delivery to the distributor, in accordance with the provisions of Article 2 paragraph (3) of the Regulation of the Minister of Finance Number 62/PMK.03/2015;

that in the application for reduction or cancellation of the SKP submitted, the Plaintiff provides the reasons: 1. that the provisions related to the delivery of fertilizers are regulated in the Regulation of the Minister of Finance Number PMK-62/PMK.03/2015 concerning Other Values as the Basis for Tax Imposition and when making Tax Invoices on the Delivery of Certain Fertilizers for the Agricultural Sector; 2. that according to Article 2 paragraph (3) PMK-62/PMK.03/2015 it is stated that the delivery of fertilizer is payable with VAT but the imposition is divided into 2, namely the imposition of the subsidized part (VAT paid by the Government) and the remaining part that is not subsidized (VAT is collected own and deposited to the State Treasury);

3. that in accordance with Article 5 paragraph (1) PMK-62/PMK.03/2015 it is stated that in essence "even fertilizers whose subsidized and non-subsidized parts are subject to VAT, the debt is only 1 (one) time imposition, namely at the producer level only";
4. that in accordance with Article 9 paragraph (1) and paragraph (2) of PMK-62/PMK.03/2015 it is stated that essentially "On the delivery of certain fertilizers for the agricultural sector by distributors and retailers, it is not necessary to collect VAT. Distributors and retailers whose business is solely - Mata delivers certain fertilizers for the agricultural sector, does not need to be confirmed as a Taxable Entrepreneur (PKP);
5. that in fact, CV Prima Agro Lestari is a fertilizer distributor as referred to in Article 9 paragraph (1) and paragraph (2) of PMK-62/PMK.03/2015;
6. that pays attention to and considers:
   - *Based on Rule* PMK-62/PMK.03/2015;
   - *Based on Data* Plaintiff is engaged in the fertilizer distributor and correctly delivers fertilizer, as well as
   - The principle that taxpayers should not pay taxes that are not their obligations;

   then the Plaintiff requests that the VAT Underpayment Principal in the Underpaid Tax Assessment Letter (SKPKB) be cancelled;

that based on the data, facts and applicable provisions, for the reason that the Plaintiff did not collect VAT on the delivery of fertilizer to farmers because the Plaintiff acts as a distributor, not a producer, the following can be submitted:

1. In making corrections, the Defendant visited the Plaintiff's location and requested information from the Plaintiff's operational officer (Mr. Darius) as the Plaintiff's Representative. Based on the explanation as stated in the Minutes of Giving Information dated April 10, 2019, the Plaintiff is engaged in trading pesticides under the brands Benup, Benxone, Simxone, Ridatop, Tasmin and Megatrol supplied by PT Asiana Chemicalindo Lestari. Based on the document in the form of a sales invoice with an example as below, it is known that the names of the goods sold are Benup, Benxone, Simxone and Tasmin;

CV.PRIMA AGRO LESTARI
TLP/FAX.0753-466623
PASAMAN BARAT-SUMBAR

PASAMAN BARAT 02-02-2018
Kepada Yth :
UD.SAUDARA TANI
PS.KIAWAI
PASAMAN BARAT

Faktur : 18/94 ID : YUS Jatuh Tempo : 15-03-2018

| Banyaknya | Nama Barang | Harga Satuan | Jumlah |
|---|---|---|---|
| 15 KARTON | BENUP 1 LT ISI 20 | 950.000 | 14.250.000 |
| 15 KARTON | BENUP 6 LT ISI 4 | 900.000 | 13.500.000 |
| 20 PAIL | BENUP 20 LT | 880.000 | 52.800.000 |
| 5 KARTON | BENXONE 1 LT ISI 20 | 1.040.000 | 5.200.000 |

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Barang2 telah diterima dengan baik dan cukup. T O T A L : 85.750.000

Penerima. Hormat Kami.

CV.PRIMA AGRO LESTARI
TLP/FAX.0753-466623
PASAMAN BARAT-SUMBAR

PASAMAN BARAT, 06-02-2018
Kepada Yth :
MITRA TANI
DATANG TOMAN
PASAMAN BARAT

Faktur : 18/77 ID : YUS Jatuh Tempo : 06-03-2018

| Banyaknya | Nama Barang | Harga Satuan | Jumlah |
|---|---|---|---|
| 1 KARTON | BENUP 1 LT ISI 20 | 950.000 | 950.000 |

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Barang2 telah diterima dengan baik dan cukup. T O T A L : 950.000

Penerima. Hormat Kami.

PASAMAN BARAT, 20-07-2018
Kepada Yth :
SUMBER TANI
KINALI
PASAMAN BARAT

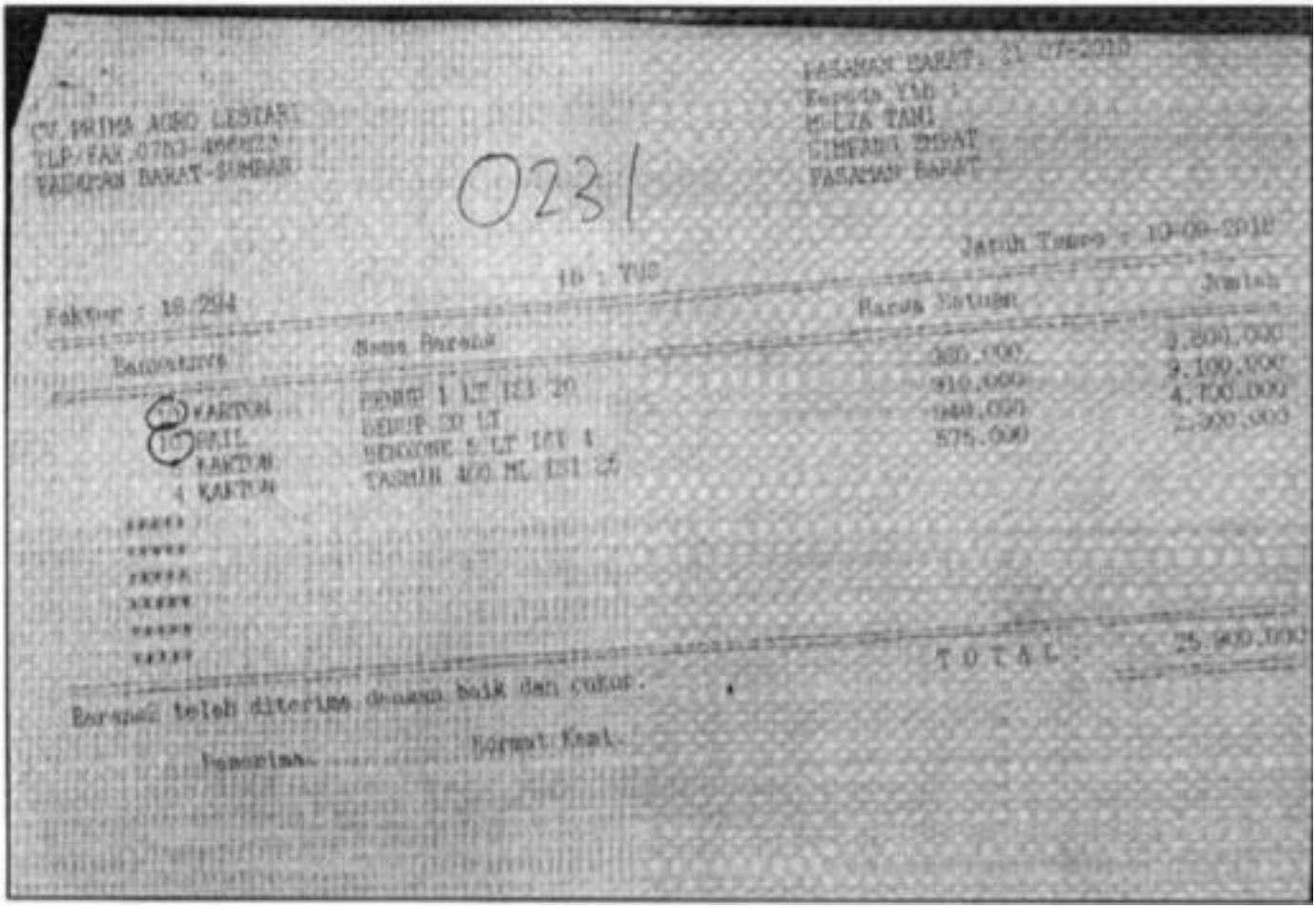
Faktur : 15/290 TO : YUS Jatuh Tempo : 18-09-2018

| Banyaknya | Nama Barang | Harga Satuan | Jumlah |
|---|---|---|---|
| 10 KARTON | BENIH 1 LT ISI 20 | 960.000 | 9.600.000 |
| 10 KARTON | BENIH 1 LT ISI 1[illegible] | 940.000 | 9.400.000 |
| 3 KARTON | BENIH 5 LT ISI 4 | 930.000 | 2.790.000 |
| 3 KARTON | BENDOME 1 LT ISI 20 | 990.000 | 2.970.000 |
| 3 KARTON | BENDOME 2 LT ISI 10 | [illegible] | [illegible] |
| 3 KARTON | SINDOME 1LT ISI 20 | 640.000 | 1.920.000 |

TOTAL : 29.700.000

Barang2 telah diterima dengan baik dan cukup.

Penerima, Hormat Kami.



CV. PRIMA AGRO LESTARI
TLP/FAX.0753-[illegible]
PASAMAN BARAT-SUMBAR

0231

PASAMAN BARAT, 21-07-2018
Kepada Yth :
M-LYA TANI
SIMPANG EMPAT
PASAMAN BARAT

Faktur : 18/294 TO : YUS Jatuh Tempo : 10-09-2018

| Banyaknya | Nama Barang | Harga Satuan | Jumlah |
|---|---|---|---|
| 10 KARTON | BENIH 1 LT ISI 20 | 960.000 | 9.600.000 |
| 10 PAIL | BENIH 20 LT | 910.000 | 9.100.000 |
| 4 KARTON | BENDOME 5 LT ISI 4 | 940.000 | 4.700.000 |
| 4 KARTON | TASMIN AGO ML ISI 25 | 575.000 | 2.300.000 |

TOTAL : 25.800.000

Barang2 telah diterima dengan baik dan cukup.

Penerima, Hormat Kami.

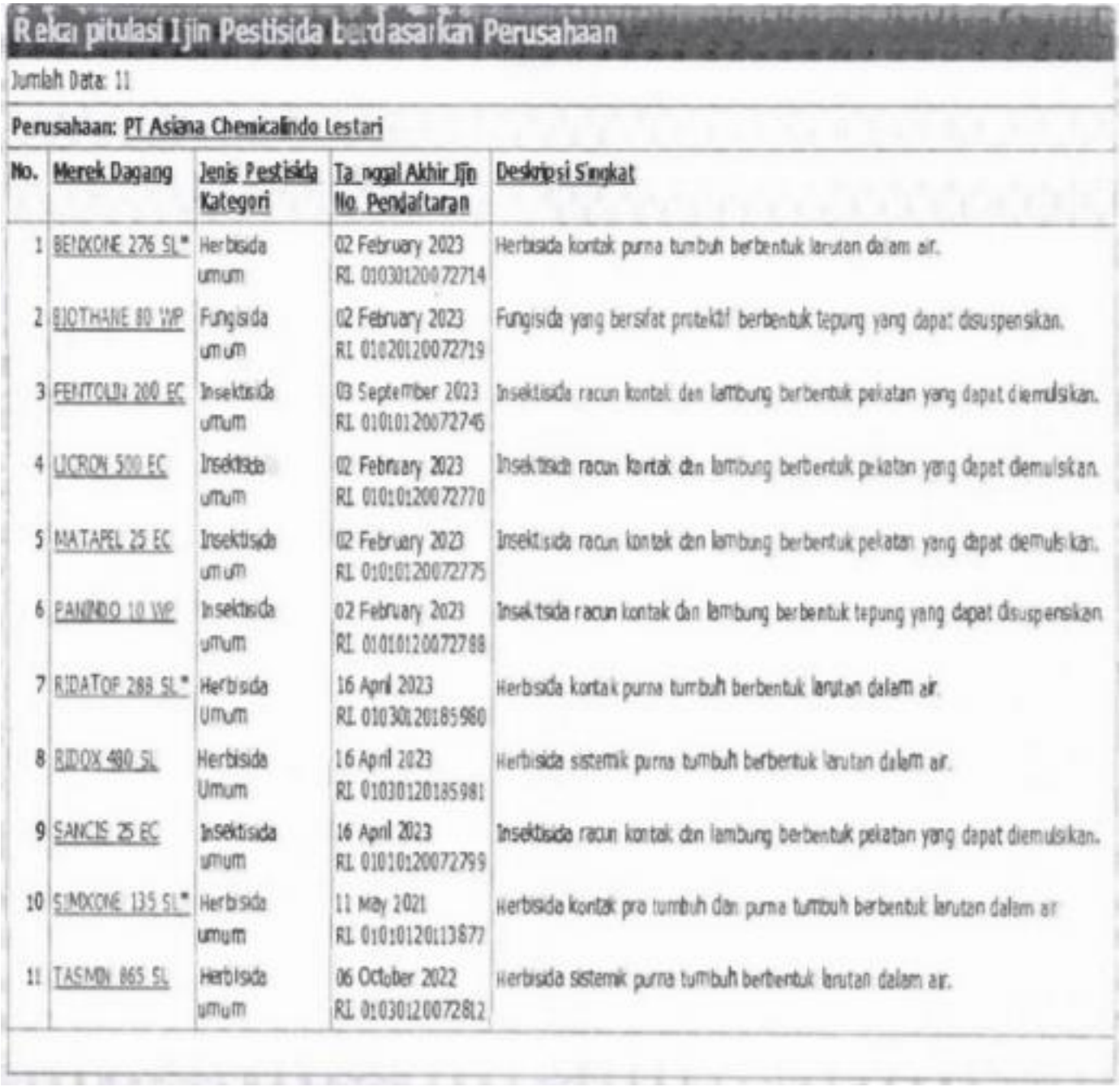
2. The Defendant has borrowed books, records and documents through S-157/WPJ.27/KP.0300/2018 dated October 10, 2018. Until the specified time limit, the Plaintiff did not fulfill the request for the loan, so the Defendant made the First Warning Letter by letter Number S-195/WPJ.27/KP.0300/2018 dated December 10, 2018. The Plaintiff lent all the requested documents as stated in the Minutes of Fulfillment

of All Borrowed Books, Records and Documents dated March 27, 2019;

3. The Defendant borrowed documents in the form of Purchase Invoices and Sales Invoices during 2018. These invoices became the basis for correction of the Delivery DPP whose VAT had to be collected by itself, where the Defendant calculated the amount of sales by multiplying the number of purchases by the selling price according to the sales invoice. In accordance with the provisions of Article 8 paragraph c of the Regulation of the Minister of Finance Number 17/PMK.03/2013 concerning Audit Procedures as amended by the Regulation of the Minister of Finance Number 184/PMK.03/2015, the audit implementation to test compliance with the fulfillment of tax obligations must be carried out in accordance with Audit Implementation Standards, namely the findings of the Audit results must be based on sufficient competent evidence and based on the provisions of the tax laws and regulations. In accordance with these provisions,

| No Invoice | Tgl Invoice | Penjualan (Rp) | Bonus (Rp) | Penjualan Bersih (Rp) |
|---|---|---|---|---|
| 18-0164 | 9/5/2018 | 705.070.000 | 15.500.000 | 689.570.000 |
| 18-0183 | 24/05/2018 | 243.210.000 | 5.300.000 | 237.910.000 |
| 18-0184 | 24/05/2018 | 464.330.000 | 10.200.000 | 454.130.000 |
| - | 31/05/2018 | 706.250.000 | - | 706.250.000 |
| Jumlah | | | | 2.087.860.000 |

4. The Defendant collected information related to the products sold by the Plaintiff. Based on the data on the Pesticide Permit Recapitulation owned by the Plaintiff's *supplier* , it can be seen that the products purchased and sold by the Plaintiff were Herbicides, Fungicides and Insecticides, not fertilizers as submitted by the Plaintiff, with the following explanation:



Rekapitulasi Ijin Pestisida Berdasarkan Perusahaan

Jumlah Data: 11

Perusahaan: PT Asiana Chemicalindo Lestari

| No. | Merek Dagang | Jenis Pestisida Kategori | Tanggal Akhir Ijin No. Pendaftaran | Deskripsi Singkat |
|---|---|---|---|---|
| 1 | BENDONE 276 SL* | Herbisida umum | 02 February 2023 RI. 01030120072714 | Herbisida kontak purna tumbuh berbentuk larutan dalam air. |
| 2 | BIOTHANE 80 WP | Fungisida umum | 02 February 2023 RI. 01020120072719 | Fungisida yang bersifat protektif berbentuk tepung yang dapat disuspensikan. |
| 3 | FENTOLIN 200 EC | Insektisida umum | 03 September 2023 RI. 01010120072745 | Insektisida racun kontak dan lambung berbentuk pekatan yang dapat diemulsikan. |
| 4 | LICRON 500 EC | Insektisida umum | 02 February 2023 RI. 01010120072770 | Insektisida racun kontak dan lambung berbentuk pekatan yang dapat diemulsikan. |
| 5 | MATAPEL 25 EC | Insektisida umum | 02 February 2023 RI. 01010120072775 | Insektisida racun kontak dan lambung berbentuk pekatan yang dapat diemulsikan. |
| 6 | PANDIDO 10 WP | Insektisida umum | 02 February 2023 RI. 01010120072788 | Insektisida racun kontak dan lambung berbentuk tepung yang dapat disuspensikan |
| 7 | RIDATOP 288 SL* | Herbisida Umum | 16 April 2023 RI. 01030120185980 | Herbisida kontak purna tumbuh berbentuk larutan dalam air. |
| 8 | RIDOX 480 SL | Herbisida Umum | 16 April 2023 RI. 01030120185981 | Herbisida sistemik purna tumbuh berbentuk larutan dalam air. |
| 9 | SANCIS 25 EC | Insektisida umum | 16 April 2023 RI. 01010120072799 | Insektisida racun kontak dan lambung berbentuk pekatan yang dapat diemulsikan. |
| 10 | SIMOCONE 135 SL* | Herbisida umum | 11 May 2021 RI. 01010120113877 | Herbisida kontak pra tumbuh dan purna tumbuh berbentuk larutan dalam air |
| 11 | TASMIN 865 SL | Herbisida umum | 06 October 2022 RI. 01030120072812 | Herbisida sistemik purna tumbuh berbentuk larutan dalam air. |

5. Based on the research on the name of the goods sold by the Plaintiff and BAPK at the time of the examination, it can be concluded that the Plaintiff's business activity is to deliver pesticides, not fertilizers as submitted by the Plaintiff in the letter requesting the reduction or cancellation of the SKP which is not true and the litigation letter so that the Plaintiff's reasons are stated that the Plaintiff is a fertilizer distributor in accordance with Article 9 paragraph (1) and paragraph (2) of PMK 62/PMK.03/2015 it is stated that "On the delivery of certain fertilizers for the agricultural sector by distributors and retailers there is no need to collect VAT. Distributors and retailers whose business is solely to deliver certain fertilizers for the agricultural sector, do not need to be confirmed as a Taxable Entrepreneur (PKP)" cannot be accepted;

6. Based on the results of the research above, it can be concluded that the basis of imposition and the amount of tax payable in the Tax Assessment Letter of Underpayment of Value Added Tax of Goods and Services Number 00005/207/18/202/19 dated 28 June 2019 March 2018 Tax Period and Defendant's Decision Number KEP-03513/NKEB/WPJ.27/2019 dated 18 December 2019 is correct;

whereas therefore, based on the prevailing tax laws and regulations, the Plaintiff has misunderstood the arguments put forward by the Plaintiff, in which the provisions in the Regulation of the Minister of Finance Number 62/PMK.03/2015 regulate the delivery of fertilizers, while the Plaintiffs carry out delivery in the form of Herbicides, Fungicides and Insecticides. Accordingly, the arguments put forward by the Plaintiff in their

litigation must be declared rejected and declared unable to be considered further by the Honorable Tax Court Judges;

CONCLUSIONS AND PROPOSALS

Conclusion

that the Plaintiff's Lawsuit Number 03/CV.PAL/1/2020 dated January 16, 2020 **does not meet** the formal provisions as stipulated in Article 23 of Law Number 6 of 1983 concerning General Provisions and Tax Procedures as amended several times, most recently by Law Number 16 of 2009 and Article 40 paragraphs (1), (2), and (3) as well as Article 41 of Law Number 14 of 2002 concerning the Tax Court;

that Letter Number KEP-03513/NKEB/WPJ.27/2019 dated December 18, 2019 concerning Decision of the Director General of Taxes concerning Cancellation of Tax Assessment on Tax Assessment Letter of Underpayment of Value Added Tax on Goods and Services Based on Article 36 Paragraph (1) Letter B Due to Application Taxpayer, issued in accordance with applicable data and provisions;

Method

that based on the description above, it is proposed to the Panel of Judges of the Tax Court to reject the Plaintiff's claim and retain Letter Number KEP-03513/NKEB/WPJ.27/2019 dated 18 December 2019 concerning the Defendant's Decision on Cancellation of Tax Assessment on Tax Assessment Letter Underpayment of Value Added Tax on Goods and Services Based on Article 36 Paragraph (1) Letter B Due to the Taxpayer's Application on behalf of CV Prima Agro Lestari NPWP: 31,525,646.1-202,000

that in the Response Letter, the Defendant did not attach any documents/evidence; **ADDITIONAL**

## DOCUMENTS PRESENTED IN THE CONFERENCE BY THE DEFENDANT

Considering, whereas in order to strengthen his argument for correction, the Defendant submitted the following evidences:

Evidence T-1 Written Explanation Regarding the Format of the Lawsuit;

Evidence T-2 Photocopy of Proof of Submission of Claim Letter;

## ADDITIONAL DOCUMENTS SUBMITTED IN THE TRIAL BY THE Plaintiff

Considering, whereas in order to strengthen the argument for his appeal, the Plaintiff in the trial submitted evidence in the form of:

Proof P-12 Original Letter Number 17/CV.PAL/VIII/2020 dated August 3, 2020 regarding the Additional Certificate of Receipt of Letter Number 03/CV.PAL/1/2020 by the Plaintiff;

Proof P-13 Original Special Power of Attorney Number 003/PAL/VI/20 dated June 15, 2020 on behalf of Ikhwan Ashadi, SE, MM, M.Ak., CA., BKP.;

Proof P-14 Photocopy of KTP, NPWP, IKH Card in the name of Ikhwan Ashadi, SE, MM, M. Ak., CA., BKP.;

Proof P-15 Photocopy of KTP and NPWP on behalf of Sudirman as Director of CV Prima Agro Lestari;

Proof P-16 Copy of NPWP CV Prima Agro Lestari;

Proof P-17 Photocopy of Small SIUP CV Prima Agro Lestari;

Proof P-18 Photocopy of CV Prima Agro Lestari Company Registration Certificate;

Proof P-19 Photocopy of Registration Proof of CV Prima Agro Lestari;

Proof P-20 A stamped photocopy of the Deed of Dissolution of Limited Liability Company CV Prima Agro Lestari (PAL) Number 347 dated 20 April 2018 made before Notary Jayat, SH, M. Kn., Notary domiciled in West Pasaman Regency;

Proof P-21 Original Letter of Revocation of Special Power of Attorney in the name of Ismy Latifah S. E., CA., M.Sc.;

# TAX COURT LAW CONSIDERATIONS _ _

## TAX COURT AUTHORITY

that the Assembly examines the authority of the Tax Court as referred to in Article 31 paragraph (1) and paragraph (3) of Law Number 14 of 2002;

that the Lawsuit Number 03/CV.PAL/1/2020 dated January 16, 2020, states that it does not agree with the Defendant's Letter Number KEP-03513/NKEB/WPJ.27/2019 dated December 18, 2019 regarding the Refund of Applications for Reduction or Cancellation of Tax Collection Letters Incorrect March 2018 Tax Period Number 00005/207/18/202/19 dated 28 June 2019;

that based on the examination, the Panel concluded that the Tax Court has the authority to examine and decide on the tax dispute so that the Assembly continues the examination related to the fulfillment of formal provisions;

## LEGAL CONSIDERATIONS ON FULFILLMENT OF DISPUTE FORMAL PROVISIONS

Considering, whereas in accordance with the laws and regulations of the tax court, the examination of the material for the appeal dispute is carried out after the examination of the fulfillment of the formal provisions;

### 1. Fulfillment of Formal Requirements for Filing a Lawsuit

that the Lawsuit Number 03/CV.PAL/1/2020 dated January 16, 2020, was signed by Sudirman Position Director;

that the Lawsuit Number 03/CV.PAL/1/2020 dated January 16, 2020, drawn up in the Indonesian language is addressed to the Tax Court, so that it **complies** with the provisions of Article 40 paragraph (1) of Law Number 14 of 2002 concerning the Tax Court;

that the Lawsuit Number 03/CV.PAL/I/2020 dated January 16, 2020, was received by the Secretariat of the Tax Court on Monday, January 20, 2020 *(delivered),* while the Defendant's Letter on the Plaintiff's Application was issued on December 18, 2019, so that the filing of the Claim the ***period of*** 30 (thirty) days of filing a lawsuit, it **is necessary to examine** the provisions as referred to in Article 40 paragraph (3) of Law Number 14 of 2002 concerning the Tax Court;

whereas Law Number 14 of 2002 concerning the Tax Court stipulates:

Article 1 number 12
The date received is the date of the postal stamp of delivery, the date of the facsimile, or in the case of being received in person, the date when the letter, decision, or decision is received in person;

Article 40 paragraph (3)
The period for filing a lawsuit against a decision other than a lawsuit as referred to in paragraph (2) is 30 (thirty) days from the date the decision being sued is received;

Article 40 paragraph (4)
The period of time as referred to in paragraphs (2) and (3) is not binding if the said period cannot be fulfilled due to circumstances beyond the control of the Plaintiff;

that the provisions of Article 1 point 41 of Law Number 6 of 1983 concerning General Provisions and Tax Procedures as amended several times, most recently by Law Number 16 of 2009 (KUP Law) stipulates that "The date of receipt is the date of the postal stamp of delivery, facsimile, or in the case of received in person,

the date on which the letter, decision, or decision was received directly";

that the Plaintiff filed a lawsuit to the Tax Court through letter Number 03/CV.PAL/I/2020 dated January 16, 2020 on the Defendant's Decision Number KEP-03513/NKEB/WPJ.27/2019 dated December 18, 2019 regarding Cancellation of Tax Assessment on Tax Assessment Letter Underpayment of Value Added Tax on Goods and Services Based on Article 36 Paragraph (1) Letter B due to the Taxpayer's Application;

that the Defendant's Decision Number KEP-03513/NKEB/WPJ.27 /2019 dated December 18, 2019 was sent via express delivery service on December 19, 2019 in accordance with the evidence sent by the Defendant submitted at the trial on July 21, 2020;

*that based on the tracking results, the a quo* Defendant's Decision Letter was received by the Plaintiff on 20 December 2019;

that based on the provisions and data/facts above, the Defendant is of the opinion that the Defendant's Decision Number KEP-035 13/NK EB/WPJ.27/2019 dated 18 December 2019 was received by the Plaintiff on 19 December 2019 in accordance with the postal stamp of the shipment;

that the Plaintiff's Lawsuit Number 03/CV.PAL/1/2020 dated January 16, 2020 was received by the Secretariat of the Tax Court on Monday, January 20, 2020 (delivered directly);

that based on the provisions in Article 1 number 12 and Article 40 paragraph (3) of Law Number 14 of 2002 concerning the Tax Court, the 30 (thirty) days deadline from the date of receipt of the decision falls on January 18, 2020;

that based on the provisions of Article 40 paragraph (4) of Law Number 14 of 2002 concerning the Tax Court also cannot be fulfilled because at the trial on July 21, 2020, the facts revealed in the trial that the Plaintiff stated that the person who submitted the lawsuit to the Tax Court on January 20, 2020 was the attorney the law of the Plaintiff died of positive COVID-19 in February 2020;

that the Panel stated that the Plaintiff as a legal representative at the time of submission of the Claim Letter to the Tax Court concerned was still alive so that it could not be categorized as a *force majeure* situation ;

that based on the foregoing, the Panel is of the opinion that the lawsuit filed by the Plaintiff exceeds the period of 30 (thirty) days from the date of receipt of the decision being sued, so that it does not meet the provisions as referred to in Article 40 paragraph (3) of Law Number 14 Year 2002 concerning the Tax Court;

that the lawsuit filed in the Lawsuit Number 03/CV.PAL/1/2020 dated January 16, 2020 is the Defendant's Letter Number KEP-03513/NKEB/WPJ.27/2019 dated December 18, 2019, thus the lawsuit **fulfills** the provisions of one lawsuit for one Defendant's Decision as referred to in Article 40 paragraph (6) of Law Number 14 of 2002 concerning the Tax Court;

**that the Lawsuit Number 03/ CV.PAL** /1/2020 dated January 16, 2020 is submitted accompanied by clear reasons and includes the date of receipt of the Defendant's Letter, namely December 23, 2019, so that it **complies** with the provisions of Article 41 paragraph (1) of the Law Law Number 14 of 2002 concerning the Tax Court;

that the Lawsuit Number 03/CV.PAL/1/2020 dated January 16, 2020 is attached with a copy of the Defendant's Letter Number KEP-03513/NKEB/WPJ.27/201 9 dated December 18, 2019, so that it **complies with** the provisions of Article 41 paragraph (1) Law Number 14 of 2002 concerning the Tax Court;

that the Letter of Claim Number 03/CV.PAL/1/2020 dated January 16, 2020, signed by Sudirman, the position of Director, that based on the Assembly's examination of the lawsuit file and in the trial, the Plaintiff showed the original and attached a photocopy of the seal of the Deed of Dissolution of the Limited Liability Company CV Prima Agro Lestari (PAL) Number 347 dated April 20, 2018 made before Notary Jayat, SH, M. Kn., Notary domiciled in West Pasaman Regency, which shows that Sudirman serves as Director, thus fulfilling the provisions of Article 41 paragraph (1) Law Number 14 of 2002 concerning the Tax Court;

*that the Lawsuit Number 03/ CV.PAL / I / 202 0 dated January 1 6 2020* ***does not meet*** *the formal provisions of filing a lawsuit;*

Paying attention to the explanations and facts of the trial as well as the evidence presented at the trial;

Considering, whereas based on the results of the examination of the data/evidence, facts, and Considering, that based on the examination of the data/evidence, facts, and statements, both from the Appellant and the Appellant in the trial, the Tribunal is determined to exercise the power of Article 80 paragraph (1) letter b of Law Number 14 of 2002 concerning the Tax Court for the **inadmissibility** of the Plaintiff's claim;

In view of Law Number 14 of 2002 concerning the Tax Court, and other statutory provisions as well as applicable laws and regulations relating to this dispute;

**JUDGE**

To declare the Plaintiff's lawsuit against the Defendant's Decision Number KEP 03513/NKEB/WPJ.27/2019 dated 18 December 2019 concerning Cancellation of Tax Assessment on Tax Assessment Letter of Underpayment of Value Added Tax on Goods and Services Based on Article 36 Paragraph (1) Letter B Due to a Mandatory Application Tax Period Tax March 2018 Number 00005/207/18/202/19 dated June 28, 2019, on behalf of **C V Prima Agro Lestari ,** NPWP 31. 525.646.1-202.000, having its address at Simpang Empat Village, Pasaman Kab. Pasaman Barat, West Sumatra, is **not acceptable .**

This was decided in Jakarta based on deliberation after the examination in the trial which was completed on Tuesday, August 11, 2020 by the Panel of Judges IVA of the Tax Court with the composition of the Assembly as follows:

Wishnoe Saleh Thaib, SH, Ak., M.Sc. as Chief Justice,
Gunawan Setiyaji, M. Stud., Ak., CA. as Member Judge,
Muhammad Amin, SE. M. Si. as Member Judge,
with the help of:
M. Adnan Abdullah, SE, MM as Substitute Registrar,

The verdict is pronounced in a trial open to the public by the Chief Judge on Tuesday, March 2, 2021, in the presence of the Member Judges, the Substitute Registrar, neither the Appeals nor the Appeals attended.

**CHIEF JUDGE ttd.**

**MEMBER JUDGES ttd.**

**Gunawan Setiyaji, M. Stud., Ak., CA.**
**ttd.**
**Muhammad Amin, SE., M.Si.**
**Wishnoe Saleh Thaib, SH, Ak.,**
**M.Sc.**

**SUBSTITUTE Clerk**
**ttd.**
**M. Adnan Abdullah, SE., MM**

**Court,**

**A copy of the original,**
**Deputy Registrar of the Tax**

**Dendi Agung Wibowo, SH, MH**
**NIP. 197312071998031001**