



## STORYTELLING CASE STUDY: HOW TO WIN A TAX DISPUTE AGAINST TAX AUTHORITY?

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### ARTICLE INFORMATION

Submitted:  
[February 08, 2021]

Accepted:  
[March 31, 2021]

KEYWORDS:  
Case Study, Tax Accounting, Tax Audit, Tax Objection, Tax Dispute.

JEL CLASSIFICATION:

### ABSTRACT

*This study focuses on answering five research questions, namely how to understand the background of a tax dispute, how to carry out the tax audit, how to perform the tax audit closing conference, how to run the objection process at the regional level, and how to win the appeal process at Tax Court. This research employed the case study framework as a methodology. The data were collected via interview as well as documentation. The information gathered was analyzed by contextualizing the meaning of the data collected. The result of this research provided insights on winning a tax dispute by implementing several strategies abstracted from the case study.*

Penelitian ini difokuskan untuk menjawab lima pertanyaan penelitian, yaitu bagaimana memahami latar belakang sengketa pajak, bagaimana melakukan pemeriksaan pajak, bagaimana melakukan pembahasan akhir hasil pemeriksaan pajak, bagaimana menjalankan proses keberatan pajak, dan bagaimana memenangkan proses banding pajak di Pengadilan Pajak. Penelitian ini menggunakan kerangka studi kasus sebagai metodologi. Pengumpulan data dilakukan melalui wawancara serta dokumentasi. Informasi yang terkumpul dianalisis dengan mengontekstualisasikan makna dari data yang dikumpulkan. Hasil penelitian ini memberikan wawasan tentang cara terindah untuk memenangkan sengketa pajak dengan menerapkan beberapa strategi yang disarikan dari hasil pembahasan studi kasus.

## 1. INTRODUCTION

Taxes are a source of state revenue that supports the economic, social, and welfare growth of the Indonesian people (Kovermann & Velte, 2019). Tax is state revenue used to improve public welfare based on collecting funds obtained from and for the community through a mechanism that refers to laws and regulations (Brotodihardjo, 2003). Taxes have great potential in improving social welfare for the entire population and maintaining economic stability. In line with this definition, the government formulated the meaning of tax in article 1 paragraph 1 of Law No. 16 of 2009 on General Provisions and Tax Procedures, which is a mandatory contribution to the state-owned by an individual or entity that is "compelling" based on law, without getting compensation directly and using the tax for the needs of the state for the greatest prosperity of the people. The word "compelling" means that if taxpayers intentionally do not fulfill their tax obligations, they will be subject to administrative sanctions and criminal sanctions (Malahayati, Syahbandir, & Azhari, 2017).

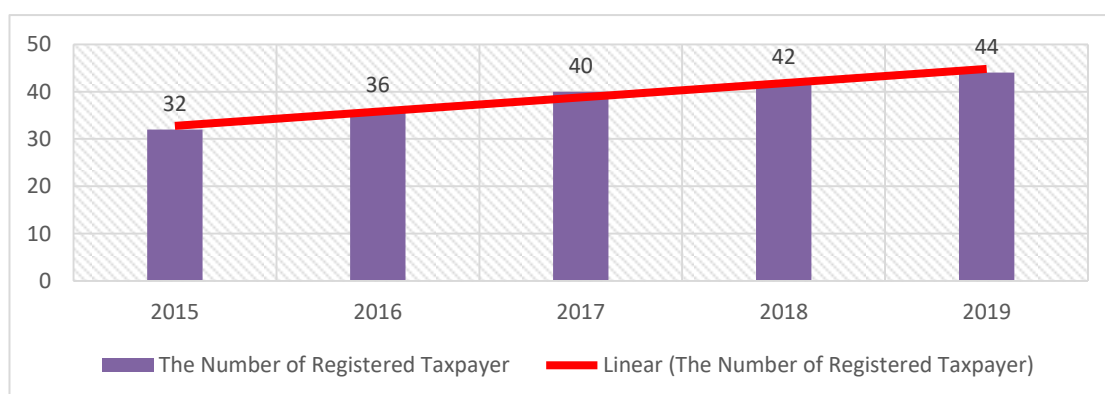
Citizens meeting the subjective and objective requirements are mandatory to carry out taxation rights and obligations properly and correctly (Anggarsari, 2010). The objective requirements are tax subjects who receive or earn income are obliged to deduct or collect the tax based on the provisions of tax laws (Poernomo, 2018). Meanwhile, the subjective requirements are tax subjects who are classified as domestic or foreign tax subjects earning income from Indonesia (Waluyo, 2018).

If these two conditions have been fulfilled, the taxpayer will get a personal identification card or identity as a means of carrying out tax administration (Sutrisno, Arifati, & Andini, 2016). This identity card is called an NPWP which can be obtained by taxpayers through personal or

occupational applications (article 2 of Law No. 16 the Year 2009 on General Provisions and Tax Procedures). NPWP binds taxpayers to carry out tax rights and obligations properly and correctly as long as the two conditions above are met. Also, NPWP can be filed for write-off if one or both of these conditions are not met (Suprajadi, Fettry, & Chrysantiami, 2008).

Taxpayer compliance can be defined as a condition in which the taxpayer fulfills all tax obligations and exercises his taxation rights by applicable laws and regulations (N. Rahayu, 2017). Taxpayers are categorized as having a high level of compliance if their formal and material obligations have been fulfilled (Vaharani & Elia, 2018). Formal compliance is a situation where the taxpayer fulfills its obligations formally following the provisions of the tax law (Adu & Amponsah, 2020). Formal compliance will be achieved when the taxpayer reports the Annual Income Tax Report before March 31 of the following year (Bwoga, 2019; Suardana & Gayatri, 2020). Meanwhile, material compliance is a condition where the taxpayer substantively fulfills all the tax provisions (Syafi'i, 2012). Basically, the level of taxpayer compliance in a country becomes one of the micro factors in determining the tax ratio (Cahyonowati, 2011). The tax ratio shows the total value of state revenue from various sectors, especially the taxation sector (Sofyan, 2007). Based on data from the Directorate General of Taxes (DJP), the number of taxpayers submitting Annual Income Tax Report (SPT) up to December 31, 2019, is as much as 24 million (Kemenkeu RI, 2019). This number only reached 54.5% of the total taxpayers who were subject to SPT of 44 million. As of January 23, 2020, the tax compliance target has not been agreed upon (Wildan, 2020). When referring to the trend in the past five years, the tax compliance ratio showed an increase in 2017 but tended to be stagnant at the end of 2019 (Figure 1).

Figure 1. Taxpayers Growth in Indonesia



Source: Ministry of Finance Performance Report (2019)

March 31 and April 30 are the limits for individual and corporate taxpayers to report SPT (Adiman, 2020; Suardana & Gayatri, 2020). Formal tax compliance has been achieved if the taxpayer reports the SPT before that date (Adiman, 2020; Pratami, Sulindawati, & Wahyuni, 2017). After that, the DJP has the authority to examine the SPT submitted. The follow-up analysis from the Account Representative is to explore the potential and if necessary carry out an audit in the framework of testing taxpayer compliance (Anwar & Oktaviani, 2019). The examination is a series of activities to collect and process data, information, and evidence which are carried out objectively and professionally based on examination standards. During its development, the DJP issued the regulation number: PER-07/PJ/ 2017 which further regulates field inspection guidelines in order to examine the compliance of tax obligations. A policy is not always permanent, but must be adapted to changing circumstances (Agusta, 2008). The Minister of Finance Decree Number 199/PMK.03/2007 on Tax Audit Procedures (PMK 199) regulates general audit procedures, including the purpose of the audit, the scope of the audit, the examination criteria, the audit period, the audit standards, the obligations and authorities of the tax auditor, the rights and obligations of the taxpayer, the provisions regarding the borrowing of notification documents and final discussion, and others. PMK 199 was later changed to Minister of Finance Decree Number 82/PMK.03/2011. The significant changes from the previous regulations are about the quality assurance mechanism and the problem of audit resolution. The reason for the change in the audit procedure policy was that the Minister of Finance at that time saw that tax audit had many problems, in the sense that many taxpayers raised objections and even went to the appeal level. It turned out that at that time the taxpayers' arguments were accepted (Bwoga, 2019). Finally, changes to the audit policy were carried out with the issuance Minister of Finance Decree Number 17/PMK.03/2013 on Audit Procedures.

This change in PMK was more emphasized because of changes in higher regulations. The most important point is the addition of examination criteria or expansion of the scope of the examination. In addition to examination criteria, there are also changes in the audit period. In Minister of Finance Decree Number 82/PMK.03/2011, there is one time period, namely the period of examination (Kurniasari, Suharyono, & Kesuma, 2016). In line with the need to make improvements to audit activities and in line with the bureaucratic reforms that are being carried out by DJP, the Director-General of Tax Circular Letter Number SE-15/PJ/2015 was issued. This letter is used as a guide to provide uniformity regarding

steps in carrying out audit activities by the Audit Executing Unit (UP2) (Bwoga, 2019).

A tax audit begins with sending an audit notification letter for field assignments or sending an invitation letter for an office audit (Mardiasmo, 2018). The results of the audit must be notified to the taxpayer by submitting an Audit Result Notification Letter (SPHP) attached with a list of audit findings by stating the legal basis for the findings. The audit ends with the preparation of an Audit Result Report (LHP) and legal products which can be in the form of a Tax Underpayment Letter (SKPKB), Additional Tax Underpayment Letter (SKPKBT), Zero Tax Letter (SKPN), Tax Overpayment Letter (SKPLB) (Assa, Kalangi, & Pontoh, 2018; Sutrisno et al., 2016).

Tax regulations are established to facilitate tax authorities and taxpayers in exercising their tax rights and obligations (Brotodihardjo, 2003; Destriyatna, Sudjana, & Dwiatmanto, 2014). The Indonesia tax system adheres to a self-assessment system, in which taxpayers honestly disclose the amount of income and calculate their taxes to be paid and reported to the state (Mardiasmo, 2018). The system gives trust and responsibility to taxpayers to calculate, and pay the amount of tax owed following the taxation provisions (Hasanah & Indriani, 2017). However, in its application, the authority possessed by taxpayers also has the risk of incorrect filling and a mistaken amount of tax to be paid (Maranatha, Handoko, & Purwaningsih, 2013). However, there are often differences of opinion between the tax authorities and taxpayers in interpreting the existing regulations. This difference of opinion eventually led to a tax dispute that must be resolved by the DJP and taxpayers.

Based on Law No. 14 Year 2002 on the Tax Court, tax disputes are *"disputes arising in the taxation sector between taxpayers and the tax authorities as a result of the issuance of legal products in the form of decisions that can be appealed or litigated to the tax court based on tax regulations."* Tax disputes can be caused by several causes, such as taxpayers' dissatisfaction with policies issued by authorized officials, differences in interpretation between taxpayers and tax authorities regarding statutory regulations (Purba & Rahadian, 2019). Different methods of calculating the amount of tax to be paid, and objections to the imposition of tax penalties.

If the taxpayer is still dissatisfied with the objection decision on the tax dispute he has submitted, the taxpayer has the right to submit an appeal to the Tax Court (Asmorowati, 2011). The appeal is a legal remedy that can be made by taxpayers or tax bearers against a decision that can be submitted for an appeal based on the applicable tax laws (Barrera & Bustamante, 2017; Mardiasmo,

2018). The appeal must be submitted within three months from the date of receipt of the objection decision (Asmorowati, 2011). The tax court provides a decision on the appeal submitted by the taxpayer in accordance with the provisions of the Tax Court Law (Asriyani, 2017).

Ispriyarso (2019) revealed that more than 40% of all appeals were granted by the Tax Court. If the tax appeal request is rejected or granted but only partially, the taxpayer is subject to administrative sanctions in the form of a fine of 100% of the total tax based on the appeal decision minus the amount of tax paid before filing an objection (Article 27, Law No. 16/2009). If the appeal is accepted in full, the taxpayer is entitled to receive interest compensation of 2% per month for a maximum of 24 months, calculated from the amount of tax overpayment in the Decision on Appeal. Ispriyarso (2019) also said that the next impact is the number of state losses resulting from the fulfillment of interest compensation on every tax appeal case that is granted.

There are scant amounts of previous researches discussing the tax appeal cases. Purba and Rahadian (2019) stated that the evaluation of tax dispute resolution at KPP Pratama Jayapura. In their paper, the researchers reveal the dominant factors causing tax disputes from the taxpayer's side. Furthermore, Maranatha et al. (2013) revealed that amongst 100 tax appeal decisions, there were 46 decisions accepting taxpayer's objections, 27 decisions accepting them partially, 15 decisions that were unacceptable, 11 decisions rejecting the objections, and 1 decision dropped on appeal. Another study by Asmorowati (2011) discusses the comparison of tax disputes, the level of objection, and the level of appeal, which can be seen from the difference between the authority, the official in charge, and the results of the decision. On the other hand, Bwoga (2019) concludes that the various causes of taxpayers' non-compliance can be identified in various forms of differences, such as differences between accounting principles following the accounting standards and fiscal principles as regulated by Taxation Law.

Ispriyarso (2019) researched weaknesses of tax objections institution. The research revealed several weaknesses in the tax objection agency, among others, its position in the DJP environment or rather a division that is part of the DJP Regional Office. This condition has raised doubt about the agency's independence because there will be a conflict of interest. In contrast to previous studies, our study specifically focuses on the process of implementing the tax audit procedures until the issuance of the appeal decision on tax dispute.

Thus, the research questions are formulated to achieve the research objectives, which are:

- (1) How is the background of the tax dispute?
- (2) How does the DJP carry out the tax audit?
- (3) How does the DJP perform the tax audit closing conference?
- (4) How does the DJP run the objection process at the regional level?
- (5) How does the Tax Court execute the appeal process?

To answer research questions, the researchers chose CV Cipta Wirasa as the study object. The company is a taxpayer registered in the Small Tax Office of Jakarta Jatinegara (KPP Jatinegara) whose application for appeal is accepted by the Tax Court. The selection of CV Cipta Wirasa as the object of our study among other taxpayers is an interesting anomaly to review. This anomaly resulted in the defeat of the DJP in the appeal process at the Tax Court. In this case, the company strived for proving the truth in fulfilling its tax payment and reporting its obligations. The tax audit was carried out by the KPP resulting in a tax underpayment. The SKPKB was issued based on the audit result. The company applied for objection and the DJP via the Regional Tax Office of East Jakarta (Kanwil Jaktim) rejected the objection. The state suffered significant losses from this appeal case filed by the company. Upon the grant of the appeal, the company was entitled to interest compensation based on Law No. 16 Year 2009.

This research is useful to provide knowledge about the factors affecting the audit process, issuing objection decisions, and appeals decisions on the study object. Furthermore, this research is also useful for increasing efficiency in the audit process so that it will produce an audit result that is undeniable, and can be defended until the decision of the appeal. This discussion is important considering there is still a lot of evidence showing the DJP defeat on the appeal cases submitted by the taxpayers to the Tax Court.

## 2. THEORETICAL FRAMEWORK

### 2.1. Tax Audit Process

Tax audit is purposed to test whether the SPT data complies with the provisions of tax laws and regulations in Indonesia (Anwar & Oktaviani, 2019; Dewi & Supadmi, 2014; Kusuma, Setiawan, & Sugiharto, 2019; Suandy, 2002). Furthermore, Pohan explains that what is meant by tax audit is:

*"A series of activities to collect and process data, information, and evidence which are carried out objectively and professionally based on tax audit standards to test*

*taxpayer compliance or for other purposes"* (2014, p. 95).

According to Ilyas and Wicaksono (2015, p. 3), a tax audit is *"a key characteristic of the voluntary compliance mechanism in the self-assessment system because the higher the level of an audit will increase tax compliance."*

Based on these definitions, it can be concluded that tax audits can be used as a means of fostering, supervising, and controlling taxpayers in fulfilling their tax obligations (Irawan & Budiono, 2019). The tax audit criteria are classified into two, namely: (1) routine audit and (2) special audit (S. K. Rahayu, 2017). Routine audit is carried out to assess the compliance of taxpayer rights and obligations (Rahman, 2018). Referring to article 17 of Law No. 16 of 2009 on General Provisions and Tax Procedures, this routine audit is performed when the taxpayer submitted the SPT stating tax overpayment restitution, already received preliminary refund of tax payment excess, and submitted loss tax returns.

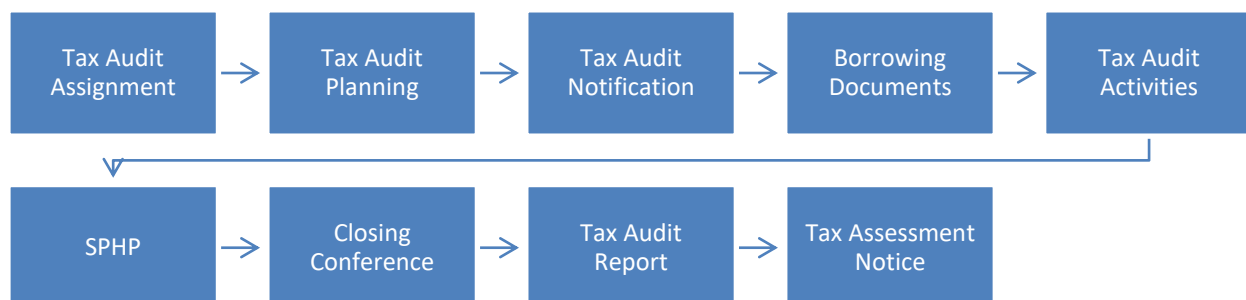
Meanwhile, a special audit is an audit that is carried out in relation to the results of risk analysis, if there are indications of non-compliance behavior by taxpayers (Rahman, 2018). The above classification becomes the determinant for the auditors to identify the risk scale of the tax audit (Mandagi, Sabijono., & Tirayoh, 2014). Routine tax audit has a lower risk than special tax audit, so that routine audit is simply carried out at the KPP (Prasetyo, 2011). For a special-purpose audit, the tax auditors can choose a field inspection at the taxpayer's residence, the taxpayer's workplace, or other places deemed necessary by the tax auditors (Surjono, 2016). The scope of tax audit is grouped by type of tax and tax period. In doing so, the audit can cover one type of tax, part of it, or all types of taxes (Wulandari, Ilat, & Sabijono, 2014). The audit can also include one tax period, several tax periods,

part of the tax year or tax year based on the latest policy starting in 2013 (Prasetyo, 2011; Surjono, 2016; Wulandari et al., 2014).

When all classifications have been determined, the tax audit procedure begins with the sending of a letter for office audit (Mardiasmo, 2018). The tax auditor must explain the reasons and objectives of the audit (Prasetyo, 2011). During the tax audit process, the auditor has the authority to view and borrow books, records, and documents used as the basis of accounting (Budileksmana, 2001). Taxpayers are also required to provide correct information if necessary during the audit process (Prasetyo, 2011). The taxpayers are also obliged to lend additional evidence and provide an explanation, within the audit period accounting (Budileksmana, 2001).

After all evidence is obtained and the audit process has been completed, the tax auditors hold a meeting with the taxpayer to discuss the final audit results (Surjono, 2016). During the discussion, the audit results must be notified to the taxpayer by submitting an Audit Result Notification Letter (SPHP) attached with a list of audit findings and the legal basis for each finding (Mardiasmo, 2018). Furthermore, the tax auditor states the results of the discussion in the minutes of the meeting with the taxpayer (Surjono, 2016). The audit ends with the provision of the Audit Result Report (LHP) and legal products which are (1) SKPN, if the amount of tax payable is the same as the amount of tax credit; (2) SKPKB, if the tax payable amount exceeds the amount of tax credit; (3) SKPLB, if the amount of tax credit is greater than the tax payable; (4) STP, to impose the administrative sanctions in the form of interest or fines; (5) SKPKBT, if there is new evidence found that indicates a tax fraud (Assa et al., 2018; Awa & Sitinjak, 2017; Mardiasmo, 2018; Prasetyo, 2011; Surjono, 2016; Sutrisno et al., 2016).

Figure 2. Tax Audit Workflow



Source: PER-07/PJ/2017

## 2.2. Tax Objection Process

Taxpayers who are dissatisfied with tax audit results in the form of SKPKB, SKPKBT, SKPLB,

SKPN have the right to file objections to the DJP (Supriyadi, Setiawan, & Bintang, 2019). The objection base can be in the form of the basis for the tax audit, the audit results, and the amount of the tax payable (Sa'adah, 2018). Taxpayers must meet the requirements for objection request following the Minister of Finance decree number: 202/PMK.03/2015, which are: (1) written in Bahasa; (2) stated: the amount of tax payable or the amount of tax withheld or collected or the amount of loss according to the calculation of the taxpayers, along with the reasons which become the basis for the calculation; (3) one objection is filed only for one tax audit result, for 1 one withholding tax, or 1 one tax collection; (4) the taxpayers have paid the accrued tax of at least the amount that has been approved by the taxpayers in the final discussion on the audit results before the objection letter is submitted; (5) filed within a period of three months from the date the legal audit output is sent; (6) the letter of objection is signed by the taxpayer, or a taxpayer's representative who has received a special authority and submitted to the KPP where the taxpayer is registered (Fatmawati & Anggraeni, 2019).

The taxpayer is obliged to submit books, records, data, information, or other information that have not been requested during the audit process but are required by the DJP for the examination of objection requests (Rochaeti, 2012; Supriyadi et al., 2019). Those secondary data can be considered in the settlement of tax objection, as long as related to the objection's issue (Asriyani, 2017; Supriyadi et al., 2019). If up to 15 working days from the date the request letter is sent, the taxpayer has not lent part of the requested information, then the tax objection reviewer, on behalf of the Director-General of Tax, issues the second request within 5 working days from the due date mentioned before (Nasution & Situmorang, 2020; Supriyadi et al., 2019). The taxpayer is obliged to fulfill this second request no later than 10 working days from the date the second request letter is sent.

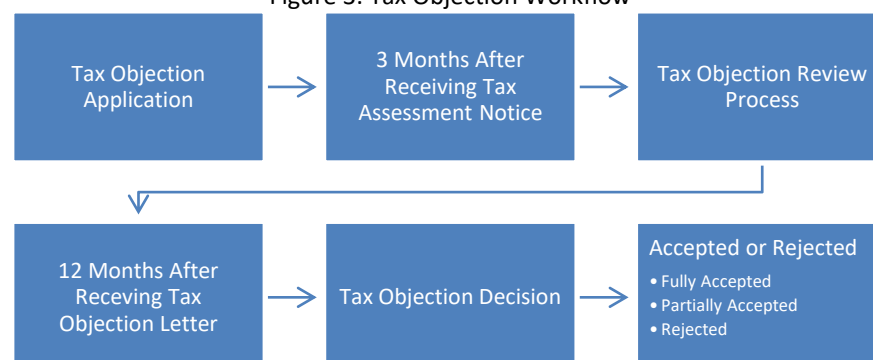
If the tax objection reviewer still needs more documents to analyze, the taxpayer has to lend additional documents or provide an explanation, within the period referred to the request letter (Sa'adah, 2018; Supriyadi et al., 2019). The DJP must give a decision on the tax objection within a maximum period of 12 months from the date the tax objection letter is received (Simandjuntak, 2014). The tax objection decision can be in the form of the objection request being granted in a whole or a part (Rochaeti, 2012; Simandjuntak, 2014). DJP can also issue a decision in the form of completely rejecting the tax objection, even increasing the amount of tax to be paid (Asmorowati, 2011; Ispriyarso, 2019; Simandjuntak, 2014).

### 2.3. Tax Appeal Process

Differences in views and interpretations on tax regulations lead to tax disputes between taxpayers and the DJP (Khalimi, 2017). The determinants of taxable income, tax rates, and administrative sanctions are subject to tax disputes (Asmorowati, 2011; Tjandra & Toly, 2014). Taxpayers can take an appeal to the tax court for resolving the disputes (Tjandra & Toly, 2014; Wahyudi, Ludigdo, & Djamhuri, 2017). The appeal is a legal action taken by the taxpayer on the basis of dissatisfaction with a tax objection decision based on Law No. 16/2009 (Setjoatmadja, 2015).

Based on article 35 of Law number 14 Year 2002 on the Tax Court, the formal requirements needed to fulfill by taxpayers for appeal submission are as follows: (1) written in Bahasa; (2) filed with clear reasons, (3) the due date for submitting appeal letter is 3 months from the date the objection decision is received, (4) one appeal is for one objection; (5) paid 50% of the amount due in the objection decision. Furthermore, the request for appeal along with the complete attachments shall be submitted to the Tax Court. The latter gives notification of the trial no later than 14 days before the trial begins.

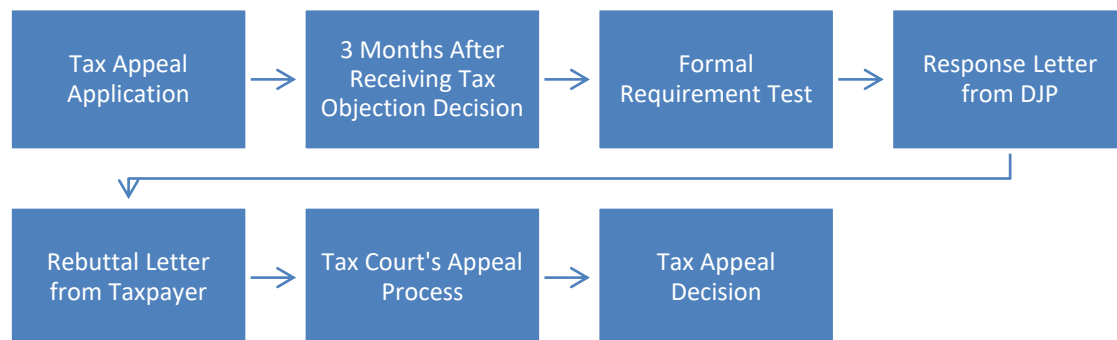
Figure 3. Tax Objection Workflow





Source: PMK-202/PMK.03/2015

Figure 4. Tax Appeal Workflow



Source: Law Number 14 Year 2002

The tax court examines the suitability of the appeal filed against the formal requirements stated in article 35 of Law number 14 Year 2002 (Asnawi & Mukhlisin, 2017; Setjoatmadja, 2015). After the formal requirements are fulfilled, the tax court starts the tax appeal procedures by asking the DJP to provide a detailed response on the tax dispute (Asriyani, 2017). DJP must submit the response letter within three months after receiving the response request from the Tax Court (Tumbel, 2017). In its response letter, DJP has to explain the chronology of SKPKB issuance and the objection decision.

After the DJP responds, the taxpayer formulates a rebuttal letter explaining new evidence, data, and information that were not previously submitted during the tax objection process (Sa'adah, 2018). The rebuttal letter is submitted within thirty days after the Tax Court receiving the appeal letter (Asmorowati, 2011; Maranatha et al., 2013; Tumbel, 2017). If the DJP and the taxpayer as the appellant do not fulfill the Tax Court request, the panel of judges will continue to examine the appeal petition (Asriyani, 2017; Sumolang, 2019). As the output, the Tax Court provides the conclusion on the petition and submits the appeal decision at the judgment reading session (Asriyani, 2017; Sa'adah, 2018).

The appeal decision has consequences for the taxpayer (Asmorowati, 2011; Asriyani, 2017; Setjoatmadja, 2015; Supriyadi et al., 2019). If the panel of judges accepts all requests for appeal submitted by the taxpayer, then the DJP is obliged to return the tax principal amount previously paid plus an interest compensation of 2% per month multiplied by the tax principal amount since the appeal decision was issued (Khalimi, 2017; Prasetyawati, 2017; Sa'adah, 2018). If the panel of judges partially approves or rejects the appeal, the taxpayer is required to pay an administrative sanction of 100% times the amount of tax dispute

(Kusumo, 2009; Rosdiana, Tambunan, & Hifni, 2020).

### 3. METHOD

#### 3.1. Research Approach

In this study, the authors embraced the interpretive paradigm as the world view. Using the interpretive means the researchers intend to find the general truth through researching and describing the phenomena in a deeper context (Denzin & Lincoln, 2017). The interpretive proposition adhered to what researchers believed in how this study should be conducted. To align with the paradigm, we then used the qualitative approach, which is an approach that places the researcher as a key instrument in the research (Saunders, Lewis, & Thornhill, 2015). The results of our study are described in the form of written words, and empirical data which emphasize meaning rather than generalization (Creswell, 2014; Yin, 2018).

To answer the research objectives, we implemented the case study framework of qualitative research following the research procedures of Qadri and Jauhari (2020). Lying on their procedures, we generated 4 main procedures to finish this case study research, namely (1) formulating the research questions, which have been mentioned in the introduction section, (2) highlighting the case study background of the tax dispute, which is going to be discussed in the next section, (3) improving case study's data collection steps and implementing the case study's data analysis procedures (Qadri & Jauhari, 2020; Yin, 2018).

#### 3.2. Data Collection Method

Based on the sources of data, this study used primary data and secondary data. The authors obtained primary data by conducting observation and interviews with three informants: an account

representative (AR) of KPP Jakarta Jatinegara who processed interest disbursement as a reward for granting CV Cipta Wirasa's appeal request, a tax auditor of KPP Jakarta Jatinegara who involved in conducting tax audit on the CV, and a reviewer of tax objection and appeal of Kanwil Jaktim who formulated the tax objection decision on the CV's case.

In conducting the interviews, we used interview protocols to guide us in questioning the interviewees during the interview session (Helaluddin, 2019; Qadri, Gunawan, & Zikrulah, 2020). By using the protocols, the interview topic did not deviate far from the research objectives. The summary of interview protocols are as follows:

Table 1. Interview Protocols

Informants	Three informants: <ul style="list-style-type: none"> <li>Account representative of KPP Jakarta Jatinegara,</li> <li>Tax auditor of KPP Jakarta Jatinegara,</li> <li>Reviewer of tax objection and appeal of Kanwil Jaktim.</li> </ul>
Time frame	February 10, 2020 – July 6, 2020
The interview topics	<ul style="list-style-type: none"> <li>The audit operating procedures on of SPT of CV Cipta Wirasa</li> <li>The reasons for issuing SKPKB on the CV's Corporate Income Tax Year 2011</li> <li>The examination procedure for the objection request submitted by CV Cipta Wirasa</li> <li>The reasons for the objection decision that rejected the objection request.</li> </ul>
Method of Interview	Interview via WhatsApp, and telephone.

Meanwhile, secondary data were collected from existing sources such as books, journal articles, official government websites, government regulations, and related works of literature (Qadri, 2019b). In collecting the secondary data, the researchers visited the KPP Jakarta Jatinegara and the Kanwil Jaktim directly from February to July 2020 so that the researchers can communicate with related employees and also extract important data from the office's information system.

### 3.3. Data Analysis Method

The data analysis procedures for this study were started by understanding the phenomena experienced by informants such as behavior, perception, motivation, and action (Hidayat & Qadri, 2020; Qadri, 2019a). We observed the informant's behaviour and perception by probing the emoticons and strong words expressed by the informants via WhatsApp message and WhatsApp call. The state of motivation and action can be understood by bracketing the informant's written expression from WhatsApp message. We then analyzed them by enriching descriptions in a specific natural context (Qadri, 2019a). We linked the storied context with secondary data gathered (Qadri & Firmansyah, 2020) by giving more emphasis on the tax audit working sheet of CV Cipta Wirasa which was used as media in expressing the tax auditor's opinion. We present the storied narrative using the storytelling organization techniques of Qadri and Firmansyah (2020).

## 4. RESULT AND DISCUSSION

### 4.1. The First Story: A Beginning Tale of the Neverwinning Tax Dispute

CV Cipta Wirasa has been the taxpayer registered at KPP Jakarta Jatinegara since March 2012 after applying a move from its previous registered tax office, the Middle Tax Office Jakarta Timur (KPP Jakarta Timur). Changing the location of the business became the basis for the CV to change place in exercising tax rights and obligations. The CV is engaged in the business of trading necessities including onions, nuts, sugar, dried chilies, candlenuts, and others. Of the commodities traded, some types of goods are non-taxable to Value Added Tax (PPN).

The deadline for reporting the annual corporate tax report (SPT) was April 30 of the following year of 2011. Following the Director-General of Tax Circular Letter (SE) Number: SE-103/PJ/2011 on Technical Guidelines for Annual Tax Report Receipt, a tax officer at the KPP Jakarta Timur received the SPT submitted by the CV through the one-stop-service unit at the KPP. After receiving the SPT, the officer continued the manual submission process by examining the suitability of data between the SPT and the Document Flow Monitoring Sheet (LPAD) then issuing the Proof of Receipt (BPS) Number 007-0100000059 and compiling the SPT documents. The officer then sent the BPS to the CV on March 22, 2012. The tax objection reviewer we interviewed stated that:

*"In general, the company had carried out its tax obligations by reporting the 2011 Corporate Income Tax Return at the KPP. The KPP's tax officer had received its SPT*



*completely because the SPT had met the formal requirements.” –Interview script on year 2020.*

Along with the SPT submission at KPP Jakarta Timur, the CV proposed a request for a tax refund (restitution) for the 2011 income tax overpayment amounting to Rp1,250,649,108.00. After the submission, the CV sent a request to move from KPP Jakarta Timur to KPP Jakarta Jatinegara because the CV had moved its business location to Cipinang Besar sub-district, Jatinegara, East Jakarta. All the fulfillment of tax rights and obligations of the CV had moved from KPP Jakarta Timur to KPP Jakarta Jatinegara.

The tax refund proposal was further processed by KPP Jakarta Jatinegara. Based on SE Number SE-85/PJ/2011 on Audit Policies to Test Compliance with the Taxation Obligations, the routine audit should be carried out because the taxpayer submitted a tax restitution. After the CV proposed a tax refund, it became the object of routine audit that must be prioritized and resolved by KPP Jakarta Jatinegara. The KPP's tax auditor team prepared for carrying out the tax audit on the CV's case. The goal was to obtain an overview of the taxpayer's background, so that the audit program could be prepared according to the audit objectives.

#### **Studying Taxpayer Files**

Tax auditors collected CV Cipta Wirasa files and data through data available in the Directorate General of Taxes Information System (SIDJP) or other external data. All data and information obtained both internally and externally were summarized in the form of a Tax Payer Profile (CV Cipta Wirasa profile). The Taxpayer Profile included the complete identity of the taxpayer, details of their business, and trade field. The second step, the auditor asked for a list of taxes in arrears belonging to the CV in the billing section of the KPP to find out whether there were taxes owed and sanctions that had not been paid. By referring to a routine audit, the team could also study the previous Audit Result Report and Audit, Working Paper. However, the CV was a transferred taxpayer from KPP Jakarta Timur, so this was a difficult job to do.

#### **Analyzing Tax Report and Financial Statements of Taxpayer**

The tax auditor analyzed the SPT reported by CV Cipta Wirasa and its attachment: the CV's financial statements. The team then performed a quantitative analysis to determine which financial statement accounts to be scrutinized further in the audit process. The qualitative analysis was then conducted to juxtapose the results with the applicable tax regulations. By looking at

benchmarked data that were specified according to the scope of a business, the team could measure the fairness of the recognition and presentation of CV's financial statements. This step was the most important in finding discrepancies in CV's SPT.

#### **Identifying Audit Problems and Determining Audit Scope**

From the results of the SPT and financial statement analysis of CV Cipta Wirasa, the tax auditor team formulated the problems arising related to the tax restitution and the audit scope by establishing the type of tax as the audit object and one year tax period as the time limit. By doing that, the taxpayer could focus on the main audit objectives to prove the feasibility of the CV in obtaining a tax refund. This basis was used by the team to compile an audit program considering the time limit.

#### **Deciding Books and Documents to be Borrowed**

After studying the tax and accounting documents, the tax auditor decided what data and documents should be borrowed from CV Cipta Wirasa for further analysis in the implementation of a tax audit.

#### **4.2. The Second Story: How to Carry Out a Tax Audit**

KPP Jakarta Jatinegara had issued Tax Audit Warrant Number PRIN-00112/WPJ.20/KP.0205/RIK.SIS/2012 on July 23, 2012. Based on this letter, the Head of KPP Jakarta Jatinegara assigned the tax auditor team to plan, implement, and conclude the audit process on tax refund claimed by CV Cipta Wirasa on the tax year 2011. This warrant was issued for auditing all tax obligations of the CV. The tax auditor team was obliged to notify the CV about the field audit to be carried out by issuing the Field Audit Notification Letter Number PEM-00112 / WPJ.20 / KP.0205/ RIK.SIS/2012 dated July 23, 2012.

Based on Director-General of Tax Regulation Number PER-35/PJ/2011 on Audit Implementation Guidelines (PER-35), the field audit notification letter must be submitted to the taxpayer in a maximum of five working days from the issuance of the audit warrant. The field audit notification letter issued by the KPP had complied with PER-35. The maximum period for field audit was four months after the submission of the field audit notification letter to the CV.

The commencement of the tax audit became the starting point for composing the audit working paper (KKP) by the tax auditor team. Based on Director-General of Tax Circular Letter Number SE-08/PJ/2012 on Guidelines for the Preparation of Audit Working Paper, the KKP is detailed and clear

notes made by the tax auditor regarding the audit procedures taken; data, information, and evidence collected; audit tests carried out, and audit conclusion generated. The tax auditor team prepared a master of KKP per type of tax containing evaluation and examination of the CV's tax payable of each tax in 2011. The KKP specified detail of each tax related to the audit scope, and the audit objectives. Furthermore, the master KKP consisted of an overview of all KKP per type of tax. In preparing the KKP for the CV, the tax auditor team made supporting documents to reveal the preparation details of the Master KKP per tax type. The process of completing the KKP ended with the preparation of the General Audit Working Paper reviewed by the team supervisor. The results of the review were attached in the Audit Working Paper Review Sheet.

Subsequently, the Head of KPP Jakarta Jatinegara issued a Request Letter for borrowing books, notes, and documents number PIN-104/WPJ.20/KP.0205/2012 issued on November 20, 2012. This letter (Figure 6) served as a form of tax auditor authority in borrowing CV Cipta Wirasa documents related to the scope of business and the sources of the CV's income which were required by the tax auditor team in conducting the tax audit. The provision of tax audit documents was an

obligation that must be fulfilled by the CV. Also, the company was considered to convey the data when it submitted a different document name but has the same function.

The documents requested by the tax auditor team via the request letter included the CV's taxation data for the year 2011, property tax of the year 2011, accounting data and company documents for year 2011, company establishment letter, deed of change in capital and business license. Other documents required to verify the CV's business activities were financial statements, chart of account, general ledger, and sub-ledger; sales book, purchase book, cash book, expense book, bank book, accounts payable book, accounts receivable book, inventory book, inventory cards, purchase orders, goods receipt, supplier Invoice and purchase returns, list of non-current assets and proof of acquisition, and the calculation of depreciation. Meanwhile, to examine the purchase of merchandise from third parties, the requested documents included other agreement letters, for example subcontracting, leasing, outsourcing, current accounts of all banks, all evidences related to permanent income, all evidences related to cost of goods sold, computer data for transactions and taxation.

Figure 6. The Letter of Data Request for Tax Audit

**MENTERI KEUANGAN  
REPUBLIK INDONESIA**  
- 3 -

**B. FORMAT DAFTAR BUKU, CATATAN, DAN DOKUMEN YANG WAJIB  
DIPINJAMKAN:**

**KEMENTERIAN KEUANGAN REPUBLIK INDONESIA  
DIREKTORAT JENDERAL PAJAK**  
..... (1)

**DAFTAR BUKU, CATATAN, DOKUMEN YANG WAJIB DIPINJAMKAN  
DALAM RANGKA PEMERIKSAAN**

Nama Wajib Pajak	:	..... (2)
NPWP	:	..... (3)
Alamat Wajib Pajak	:	..... (4)

No.	Jenis/Nama Buku, Catatan dan Dokumen	Keterangan

Source: SE-85/PJ/2011

After the second warning letter was issued, CV Cipta Wirasa sent the softcopy of the 2011 ledger; 2011 list of non-current assets; original input of VAT Invoices for January-December 2011; the original output of VAT invoices for January, April, June, July, August October, November, and December 2011; purchase invoices for April, May, June 2011; 2011 property tax documents; 2011 annual income tax report; 2011 monthly income tax report; VAT monthly report for January-December 2011.

Based on the interview and our analysis on the tax audit process, we revealed that the books, records, and information requested to become tax audit documents did not meet the requirements to determine the 2011 Cost of Goods Sold of the CV. There was no data that can be used to carry out the tracing of non-taxable goods purchased from suppliers as third parties. So, several merchandise purchases were corrected, including dried chilies, pecans, dates, onions, date syrup, and garlic. There was also no strong supporting evidence to validate invoices related to the purchase of merchandise in the form of non-taxable goods from suppliers. The purchase of merchandise was not supported by proof of payment. The proof was the basis for the tax auditor team to correct the 2011 Cost of Goods Sold in CV Cipta Wirasa's financial statements, from Rp86,005,737,368 to Rp77,809,337,951. So that there was a positive tax adjustment of Rp8,196,399,417. As a result of these tax adjustments, the total gross profit generated by the CV in 2011 was greater than before. This tax adjustment caused the net income on which the taxable income was based was much greater than the net income calculation by the CV in its 2011 SPT. So, the basis for the CV's tax payable was no longer being used by the tax auditor team as the basis of adjusted tax payment. By implementing a corporate tax rate of 25% of taxable income, the adjusted tax payable had increased from Rp10,249,500 to Rp2,063,088,250. The tax auditor team outlined all the field audit procedures taken, the tests carried out, the evidence and information collected, and the conclusion taken in connection with the facts and data found in the field, then summarized that information into the Audit Working Paper.

#### **4.3. The Third Story: How to Perform the Tax Audit Closing Conference**

After the audit process was completed, the tax auditor team prepared a Tax Audit Result Notification Letter (SPHP) containing the audit findings namely corrected items, correction value, correction basis, temporary calculation of the principal amount of adjusted tax payable, and temporary calculation of administrative sanctions. This SPHP is the result of a temporary tax audit and

is not yet a final decision. All audit findings were attached at the time of delivery of the letter. Audit Result Notification Letter Number PHP-29/WPJ.20/KP.0200/ 2013 was submitted on March 15, 2013.

The next step, according to Minister of Finance decree (PMK) number 199/PMK.03/2007 on Tax Audit Procedures, was to conduct a joint discussion of the tax audit that had been carried out. The discussion is called a closing conference or the Final Audit Result Discussion. The closing conference is mandatory for the tax auditor team to conduct. The consequence of not holding the discussion is that the product of tax audit can be canceled based on article 36 paragraph (1) letter d of the KUP Law 1984.

The tax auditor team of the CV Cipta Wirasa case discussed the final results of the tax audit with CV Cipta Wirasa on March 13, 2013. During the discussion, the CV received an explanation of the tax audit procedures, the tax audit results, and the findings. Of course, the CV refused to approve the results of the tax audit related to the corrections made by the team on Cost of Goods Sold (COGS) of the CV's Income Statements Year 2011. The original COGS was Rp86,005,737,368, which was corrected to Rp77,809,337,951. The CV made a response letter explaining the transactions for the purchases of merchandise were correct. The problem was the CV did not have valid pieces of evidence of the transactions, and without the appropriate audit shreds of evidence, the team had the right to determine the positive adjustment to the reported tax overpayment of the CV's SPT of 2011. This positive adjustment of Rp8,196,399,417 was also rejected by the CV because based on the benchmark of similar businesses, the average trader took a margin of 10% of the total COGS. As a result of the adjustment, the team explained that the gross profit generated by the CV was greater than the reported gross profit in the CV's SPT. This adjustment caused the Net Income on which the Taxable Income was based was much greater than the CV's calculation. So the team established the amount of adjusted tax payable not based on the CV's financial statements but referred to the analysis and fairness specified by the tax auditor team themselves. With a corporate income tax rate of 25% of taxable income, the adjusted tax payable which was originally Rp10,249,500 became Rp2,063,088,250. From the closing conference, the CV rejected some results of the tax audit proposed by the team and delivered clarification letter number 001/DIR-ACC/SR/III/13 on March 13, 2013, which was received by KPP Jakarta Jatinegara on March 13, 2013. Furthermore, the entire series of tax audits on the CV Cipta Wirasa case was outlined in the Minutes of the tax audit closing conference on March 19, 2013. The closing conference contained a statement by the CV which disagreed

especially with the correction on purchases account in Cost of Goods Sold of Income Statement (Table 2).

From the minutes of the closing conference, we can understand that the tax auditor team issued the Notice of Tax Underpayment Assessment (SKPKB) for all types of taxes, including SKPKB on Corporate Income Tax Number 00002/206/11/002/13 dated March 21, 2013, Fiscal Year 2011, the details of which were stated in Table 3. Based on the tax audit results, CV Cipta Wirasa

still had to pay the tax payable along with administrative sanctions of Rp1,042,846,535. From the tax audit history, the authors see that the tax auditor team had carried out the audit plan, the audit process, and the closing conference following the procedures stipulated in the prevailing tax laws and regulations. In the process of the audit, the CV hoped for the tax refund from the income tax overpayment of 2011. However, the intention to provide useful data during the investigation process by KPP Jakarta Jatinegara was quite doubtful.

Table 2. The Closing Conference Working Sheet

Uraian	Jumlah Rupiah Menurut		Pembahasan Akhir (yang disetujui WP)	Koreksi Yang WP Tidak Setuju
	Wajib Pajak	Fiskus		
1. Peredaran Usaha, Bersih	89.370.581.269	89.370.581.269	89.370.581.269	
2. Harga Pokok Penjualan	86.005.737.368	77.809.337.951	86.005.737.368	8.196.399.417
3. Laba Bruto	3.364.843.901	11.561.243.318	3.364.843.901	
4. Biaya Usaha	4.364.111.161	4.364.111.161	4.364.111.161	
5. Penghasilan Neto Dalam Negeri	(999.267.260)	7.197.132.157	(999.267.260)	
6. Penghasilan neto dalam negeri lainnya:				
Penghasilan dari luar usaha	290.772.660	305.728.823	305.728.823	
7. Penyesuaian Fiskal:	1.087.990.076	1.087.990.076	1.087.990.076	
a. Penyesuaian Fiskal Positif	338.497.204	338.497.204	338.497.204	
b. Penyesuaian Fiskal Negatif	749.492.872	749.492.872	749.492.872	
Jumlah	40.998.222	8.252.353.852	55.954.435	8.196.399.417
8. Jumlah Penghasilan Neto				
9. Kompensasi Kerugian	40.998.272	8.252.353.852	55.954.435	8.196.399.417
10. Penghasilan Kena Pajak	10.249.500	2.063.088.250	13.988.500	2.049.099.750
11. PPh terutang	1.260.898.608	1.260.898.608	1.260.898.608	
12. Kredit Pajak:				
a. PPh Pasal 25	1.260.898.608	1.260.898.608	1.260.898.608	
Jumlah Pajak yang dapat dikreditkan	(1.250.649.108)	802.189.642	(1.246.910.108)	2.049.099.750
13. Jumlah PPh yang masih harus (lebih) dibayar		240.656.893		240.656.893
14. Sanksi Administrasi:				
a. Pasal 13 (2) KUP	(1.250.649.108)	1.042.846.535	(1.246.910.108)	2.289.756.643
15. Jumlah PPh yang masih harus (lebih) dibayar				

Source: Tax Dispute Decision Repository from [www.setpp.kemenkeu.go.id](http://www.setpp.kemenkeu.go.id).

Table 3. Underpaid Tax Assessment

15	Penghasilan Netto	Rp	8.252.353.852
16	Penghasilan Kena Pajak	Rp	8.252.353.852
17	PPh yang terutang	Rp	2.043.088.250
18	Kredit Pajak:		
a.	PPh ditanggung pemerintah	Rp	0
b.	Dipotong / dipungut oleh pihak lain:		
b.1.	PPh Pasal 21	Rp	0
b.2.	PPh Pasal 22	Rp	0
b.3.	PPh Pasal 23	Rp	0
b.4.	PPh Pasal 24	Rp	0
b.5.	Lain-lain	Rp	0
b.6.	Jumlah (b.1 + b.2 + b.3 + b.4 + b.5)	Rp	0
c.	Dibayar sendiri :		
c.1.	PPh Pasal 22	Rp	0
c.2.	PPh Pasal 25	Rp	1.260.898.608
c.3.	PPh Pasal 29	Rp	0
c.4.	STP (pokok kurang bayar)	Rp	0
c.5.	Fiskal Luar Negeri	Rp	0
c.6.	Lain-lain	Rp	0
c.7.	Jumlah (c.1 + c.2 + c.3 + c.4 + c.5 + c.6)	Rp	1.260.898.608
d.	Diperhitungkan		
d.1.	SKPPKP	Rp	0
e.	Jumlah Pajak yang dapat dikreditkan (a+b.6+c.7-d.1)	Rp	1.260.898.608
5	Pajak yang tidak/kurang bayar (3-4. e)	Rp	802.189.642
6	Sanksi Administrasi:		
a.	Bunga Pasal 13 (2) KUP	Rp	240.656.893
b.	Kenaikan Pasal 13 (3) KUP	Rp	0
c.	Bunga Pasal 13 (5) KUP	Rp	0
d.	Kenaikan Pasal 13A KUP	Rp	0
e.	Kenaikan Pasal 17C (5) KUP	Rp	0
f.	Kenaikan Pasal 17D (5) KUP	Rp	0
g.	Jumlah sanksi administrasi (a+b+c+d+e+f)	Rp	240.656.893
7	Jumlah PPh yang masih harus dibayar (5 + 6.g)	Rp	1.042.846.535
8	Jumlah yang telah disetujui berdasarkan Pembahasan Akhir Hasil Pemeriksaan	(Rp	1.246.910.108)

Source: Tax Dispute Decision Repository from [www.setpp.kemenkeu.go.id](http://www.setpp.kemenkeu.go.id).

The CV cannot explain with a piece of clear information about the slow fulfillment of requests for books, data, and records that became the audit basis. Yet the CV provided the data requested after receiving a second warning letter. The data submitted was also very limited as it had not fulfilled the tax auditor's data request. Of course, this condition became problematic for the tax auditor in continuing the audit process and caused the time delay to complete the tax audit.

Therefore, we conclude that CV Cipta Wirasa is a wholesaler of taxable and non-taxable goods. The CV had understood very well the workflow of a routine audit for income tax restitution. The CV had filed for the income tax

restitution every tax year from 2009 to 2011. Our informant, a tax auditor at KPP Jakarta Jatinegara, revealed that:

*"The cases like this, CV Cipta Wirasa's case, have occurred several times during the tax audit process in recent years (2009 to 2011). The difficulties in obtaining the required data and short period of tax audit duration are major problems faced by every tax auditor."* – Interview script on the year 2020.

#### 4.4. The Fourth Story: How to Run the Objection Process at Regional Level

In the tax audit closing conference, CV Cipta Wirasa had expressed a disagreement with the Audit Result Notification Letter (SPHP) presented by the tax auditor team of KPP Jakarta Jatinegara. The issuance of the tax assessment report in the form of 2011 Tax Underpayment Assessment Notice (SKPKB) Number 00002/206/11/002/13 dated March 21, 2013, as a legal output of the tax audit triggered the CV to file an objection request at the Kanwil Jaktim. The CV submitted an objection request with Letter Number 002/DIR-ACC/SR/VI/13 dated June 19, 2013. The request was accepted by KPP Jakarta Jatinegara on June 20, 2013, based on LPAD Number Number 000114/002/Jun/2013 dated June 20, 2013. The KPP administered and submitted the CV's objection request files to Kanwil Jaktim.

In 2013, CV Cipta Wirasta had fulfilled the formal requirements on the objection request, including: (1) CV's Objection Letter Number 002/DIR-ACC/SR/VI/13 dated June 19, 2013, was submitted in Bahasa; (2) The letter stated the amount of tax payable, the amount of tax withheld and the amount of loss based on the calculation of the CV along with the reasons for the tax calculation; (3) The letter was filed only for the 2011 Income Tax Underpayment Assessment Notice Number 00002/206/11/002/13, which included the mismatch in determining 2011 COGS and the amount of tax payable that must be paid; (4) The CV had paid the accrued tax amounting to Rp1,042,846,535.00 which had been approved in the tax audit closing conference; (5) The letter was dated on June 19, 2013, within 3 months from the date the tax underpayment assessment notice was sent; (6) The tax objection letter was signed by the Chief Executive Officer of the CV explaining that the CV disagreed to the positive correction on 2011 COGS amounting to Rp8,196,399,417.00.

The reviewer of the tax objection of the CV Cipta Wirasa case at Kanwil Jaktim submitted a request for borrowing books, records, data, and information Number S-1825/WPJ.20/BD.06/2013 on November 19, 2013. The requested documents were based on the tax obligation fulfillment category consisting of the 2011 Annual Corporate Income Tax Return and its attachments; and other documents required such as the 2011 financial statements; the book of ledgers of year 2011

(cash/bank books, and purchases of inventory books); purchase orders, delivery orders, and invoices related to the calculation of COGS. Other evidence to support the objection request was also demanded, namely import documents related to the inventory purchases, bill of lading, tax payment documents in the context of import.

In order to see the track record of the tax audit, the objection reviewer was also authorized to request documents consisting of a request for borrowing books, notes, and documents; list of books, records, documents that must be borrowed in the context of tax audit; proof of borrowing and returning books, records, and documents; Audit Result Notification Letter; list of audit findings; other documents related to lending and borrowing documents; other documents related to administrative processes or formal Audit procedures; matrix of goods flow and money Flow related to the purchases of goods; document flow of purchase transactions; document flow of sales transaction; Audit Result Notification Response Letter, as well as supporting documents; company organizational structure documents; details of other payable Rp14,107,243,888.00; and other information related to the subject of the tax dispute.

Until the appointed time of the end of the year 2013, CV Cipta Wirasa had not provided all the requested data. The objection reviewer then conducted the examination based on the available data. The objection reviewer concluded that the issuance of the 2011 Income Tax Underpayment Assessment Notice Number 00002/206/11/002/13 was appropriate. The objection reviewer issued an invitation letter-number S-468/WPJ.20/BD.06/2014 dated April 17, 2014, to discuss and clarify the tax dispute. During the discussion, the objection reviewer explained all the details of the objection examination based on the available data. The CV disagreed with the result and was willing to provide additional documents that could be considered in issuing the objection decision. Based on the discussion, the objection reviewer issued a request letter for books, notes, data, and additional information number S-507/WPJ.20/BD.06/2014 on April 30, 2014. Details of tax objection document request are as follows:



Table 4. Details of The Requests for Tax Objection Documents

No	Jenis buku, catatan, data, dan informasi	Banyaknya	Keterangan
1	Fotokopi SPT Masa PPN Masa Januari-Desember 2011	1 set	Sesuai permintaan pertama
2	Fotokopi rekening Koran Tahun 2011	1 set	Sesuai permintaan pertama
3	Softcopy Buku Besar Tahun 2011	1 set	Sesuai permintaan pertama
4	PO Pembelian Tahun 2011	1 set	Sesuai permintaan pertama
5	Fotokopi SPT Tahunan Tahun 2011	1 set	Sesuai permintaan pertama
6	Bagan alir proses impor	1 lembar	Sesuai permintaan pada und. Pembahasan & klarifikasi sengketa
7	Bagan alir proses penjualan	1 lembar	Sesuai permintaan pada und. Pembahasan & klarifikasi sengketa
8	Surat Tanggapan Hasil pemeriksaan Tahun 2011	1 lembar	Sesuai permintaan pada und. Pembahasan & klarifikasi sengketa
9	Struktur organisasi	1 lembar	Sesuai permintaan pada und. Pembahasan & klarifikasi sengketa

Source: Tax Dispute Decision Repository from [www.setpp.kemenkeu.go.id](http://www.setpp.kemenkeu.go.id).

From all requested documents, CV Cipta Wirasati did not submit several supporting documents as written in Kanwil Jaktim's letter number S-1825/WPJ.20/BD.06/2013, which were: inventory purchase contract document; purchase orders; import documents; delivery order; payment receipts; proof of payment by cash/bank transfer; information from sales partners. All of these documents were the main tools for tracing the purchase of inventory from third parties. The objection reviewer also found obstacles in examining the correctness of the documents for determining 2011 COGS. After the CV submitted additional documents, the reviewer conducted a final examination on the objection issues. The CV was unable to provide complete and comprehensive data related to the audit finding on inventory purchase, namely: purchases of inventory in the form of dry chilies, flour, candlenut, sugar, date syrup, garlic, and onions. Based on the inability of the CV to provide requested data, the reviewer then issued the Minutes of Not Fulfilling Partially of the Tax Objection Document Request Number BA-3771/WPJ.20/2014 dated 16 June 2014. Because of data limitation, the objection reviewer cannot be sure of the material truth of the inventory purchases. So, there was still a positive correction on 2011 COGS, which was a positive correction on the purchases of inventory in the form of dry chilies, flour, candlenut, palm, date syrup, garlic, and onions amounting to Rp8,196,399,417.00. The details of the objection discussion were displayed in Table 5.

The objection reviewer had made final positive corrections after additional documents have been submitted for the inventory purchases. There was a change in elemental correction from

the original 201 COGS amounting to Rp8,196,399,417.00 to Rp6,000,327,727.00. The reviewer decided to maintain the correction strengthening the KPP Jakarta Jatinegara's SKPKB Number 00002/206/11/002/13 dated March 21, 2013, Fiscal Year 2011. As a result, the objection reviewer issued KEP-580/WPJ.20/2014 June 16, 2014, which rejected CV Cipta Wirasa's objection request. The details of the objection decision were presented on Table 6.

Based on the terse story on the tax objection process of CV Cipta Wirasa case, we conclude that in order to investigate the material truth of the inventory purchases related to the correction of the 2011 COGS, Kanwil Jaktim had submitted a request letter to borrow books, records and documents, a letter of invitation to discuss and clarify tax disputes, and a letter of request for borrowing additional books, records, and documents. Until the objection process was ended, the CV failed to submit supporting evidence related to the main dispute amounting to Rp8,196,399,417.00. The numbers consisted of the inventory purchase for dry chilies, flour, candlenut, sugar, date syrup, garlic, and onions. The requested supporting data were a basic tool to prove whether the 2011 COGS component was correct or not. Unfortunately, such data cannot be provided by the CV so that the unavailability was a major obstacle for the reviewer to trace the inventory purchase transactions. The absence of information on the name, address, and Tax Identification Number (NPWP) of suppliers made a difficult for reviewers to verify statements from third parties. Failing to prove shreds of evidence for the inventory purchases will only lead to fictitious transaction assumptions.

Table 5. Discussion of Objection Examination Results

Uraian	Menurut CV Cipta Wirasa(Rp)	Menurut Penelaah Keberatan (Rp)
Peredaran Usaha	89.370.581.269	89.370.581.269
Harga Pokok Penjualan	86.005.737.368	77.809.337.951
Penghasilan Bruto dari Usaha	3.364.843.901	11.561.243.318
Pengurang Penghasilan Bruto	4.364.111.161	4.364.111.161
Penghasilan Neto dari Usaha	(999.267.260)	7.197.132.157
Penghasilan dari Luar Usaha	305.728.823	305.728.823
Penyesuaian Fiskal:		
- Penyesuaian Fiskal Positif	1.087.990.076	1.087.990.076
- Penyesuaian Fiskal Negatif	338.497.204	338.497.204
Penghasilan Neto dari Usaha	55.954.435	8.252.353.852
Kompensasi Kerugian		
Penghasilan Kena Pajak	55.954.435	8.252.353.852
PPh Terutang	13.988.500	2.063.088.250
Kredit Pajak	1.260.898.608	1.260.898.608
PPh Kurang (Lebih) Bayar	(1.246.910.108)	802.189.642
Sanksi Administrasi:		
- Bunga Pasal 13 (2) KUP...Bulan		240.656.893
- Kenaikan Pasal 13 (3) KUP		
PPh Yang Masih Harus (Lebih) Dibayar	(1.246.910.108)	1.042.846.535

Source: Tax Dispute Decision Repository from [www.setpp.kemenkeu.go.id](http://www.setpp.kemenkeu.go.id).

Table 6. Objection Decision of Kanwil Jaktim

Uraian	Semula (Rp)	Ditambah/ (Dikurangi) (Rp)	Menjadi (Rp)
Penghasilan Neto	8.252.353.852	-	8.252.353.852
Kompensasi Kerugian			
Penghasilan Kena Pajak	8.252.353.852		8.252.353.852
Pajak Penghasilan (PPh) Terutang	2.063.088.250		2.063.088.250
Kredit Pajak	1.260.898.608		1.260.898.608
Jumlah PPh yang lebih bayar	802.189.642		802.189.642
Sanksi Administrasi	240.656.893		240.656.893
Jumlah PPh yang masih harus/(lebih) dibayar	1.042.846.535		1.042.846.535

Source: Tax Dispute Decision Repository from [www.setpp.kemenkeu.go.id](http://www.setpp.kemenkeu.go.id).

#### 4.5. The Fifth Story: How to Portray the Appeal Process at Tax Court

##### The COGS Controversy Episode 1: Fulfilling Formal Requirements for Tax Appeal

CV Cipta Wirasa was still not satisfied with the objection decision issued by Kanwil Jaktim. Based on Article 27 of Law No. 16 of 2009 on General Provisions and Tax Procedures, the CV finally submitted an appeal to the Tax Court regarding the material of objection decision on the

CV's SKPKB of 2011 which were still the object of a tax dispute. The CV was represented by its tax attorney to submit a request for appeal to the Tax Court with an appeal letter number 09/SK/SR/14 dated August 28, 2014. The Tax Court received the letter on September 5, 2014.

Following Article 35 and Article 36 of Law Number 14 Year 2002 on The Tax Court, CV Cipta Wirasa completed formal requirements for appeal: (1) the appeal letter was written in Bahasa; (2) the appeal was filed within three months from the date

of receipt of the objection decision number KEP-580/WPJ.20/2014 dated June 16, 2014, which was on June 18, 2014; (3) one appeal letter was filed for one objection decision; (4) the appeal was filed with clear reasons; (5) the appeal letter was attached with a copy of the Decision on Objection Number KEP-580/WPJ.20/2014 dated 16 June 2014; (6) the amount of the Income-tax principal in the objection decision was an underpayment of Rp802,189,642 while the amount that was approved based on the closing conference was an overpayment of Rp1,246,910,108; (7) the CV had also paid the amount of tax payable in the SKPKB amounting to Rp1,042,846,535.

In addition to the formal decision, CV Cipta Wirasa also submitted several files to be considered by the Tax Court Council. The files are expected to be additional supporting pieces of evidence at the time of the trial. Hereby, the CV, which was the appellant, also attached: (1) Decision on Objection Number KEP-580/WPJ.20/2014 dated June 16, 2014; (2) Objection letter number 002/DIR-ACC/SR/VI/13 dated 19 June 2013; (3) SKPKB of Corporate Income Tax number 00002/206/11/002/13 dated March 21, 2013; (4) Proof of tax payment in accordance with SKPKB amounting to Rp1,042,846,535.00 which was paid on May 7, 2013;

#### **The COGS Controversy Episode 2: Reasoning for Tax Appeal**

CV Cipta Wirasa ensured that all purchases and its payment had been properly recorded and supported by valid proofs of payment. In reporting the 2011 Corporate Income Tax Return (SPT), the CV submitted a request for a tax refund for the year 2011 amounting to Rp1,250,649,108.00. Concerning the 2011 SPT, the tax auditor team of KPP Jakarta Jatinegara performed routine audit procedures to measure the validity of the tax restitution claim. The CV provided data, notes, and information which became the audit basis, but the company did not fulfill those data after the tax auditor team requested them for the third time along with the Second Warning Letter number Prg-010/WPJ.20/KP.0205/2013 dated February 27, 2013. The team issued the closing conference result explaining that the adjusted tax payable was based on the correction on 2011 COGS due to lack of evidence. The CV disagreed with the result. The company then proposed the rebuttal letter Number 001/DIR-ACC/SR/III/13 on March 13, 2013. The tax auditor team issued the Notice of Tax Underpayment Assessment (SKPKB) number 00002/206/11/002/13 on March 21, 2013, as a legal product as the audit result.

CV Cipta Wirasa was dissatisfied with the SKPKB, so the CV submitted an objection request to

the Kanwil Jaktim via its letter number 002/D1R-ACC/SR/VI/13 dated June 19, 2013. The letter was received by KPP Jakarta Jatinegara on June 20, 2013. The formal requirements for tax objection were fulfilled and the objection reviewer conducted the examination process on the objection. Based on the results of the tax objection examination, the Kanwil Jaktim issued the Decision on Objection Number KEP-580/WPJ.20/2014 dated June 16, 2014, which rejected the CV's objection by strengthening the SKPKB of KPP Jakarta Jatinegara Number 00002/206/11/002/13 dated March 21, 2013. Lying on this basis, the CV requested the Tax Court to grant all requests for appeal by canceling positive corrections on the 2011 COGS so that the 2011 corporate income tax was following the tax calculation by the CV.

#### **The COGS Controversy Episode 3: Responding to The Proposed Tax Dispute**

The DJP represented by the Directorate of Tax Objections and Appeals submitted a letter of appeal explanation on CV Cipta Wirasa number S-2302/WPJ.20/2014 on December 1, 2014. Referring to article 44 of Law number 14 of 2002, the DJP was urged to explain several reasons for the issuance of SKPKB on 2011 Corporate Income Tax number 00002/206/11/002/13 dated March 21, 2013, by KPP Jakarta Jatinegara and the issuance of objection decision number KEP-580/WPJ.20/2014 dated June 16, 2014, by Kanwil Jaktim.

DJP argued that the reason for the issuance of SKPKB Number 00002/206/11/002/13 on March 21, 2013, by KPP Jakarta Jatinegara, was that CV Cipta Wirasa did not convey the requested notes, data, and information related to the 2011 COGS account. The submission of audit documents was carried out after the team submitted the third letter requesting data and information along with the second warning letter number Prg-010/WPJ.20/KP.0205/2013 dated February 27, 2013. However, not all requested data were fulfilled, so the team prepared the Audit Working Paper based on the existing data. The team concluded that there was a positive correction on the inventory purchases because they were not supported by proof of payment.

DJP via Kanwil Jaktim issued the decision on objection number KEP-580/WPJ.20/2014 dated June 16, 2014, stating that the DJP rejected CV Cipta Wirasa's objection. DJP proclaimed that the reason for issuing the objection decision was the non-fulfillment of data, records, and information requested by the DJP. The CV still did not provide basic data requested by the DJP on the inventory purchases as the basis of 2011 COGS. Therefore, the objection reviewer at the Kanwil cannot believe the validity of the purchases so that the reviewer

concluded that the issuance of SKPKB Number 00002/206/11/002/13 by KPP Jakarta Jatinegara had been appropriate and complied with the tax laws and regulations.

#### **The COGS Controversy Episode 4: Rebutting Tax Authority Argument on Data Completeness**

CV Cipta Wirasa insisted that the company had fulfilled all DJP's requests for data, records, and information in the tax audit phase as well as the tax objection stage. Hence, the CV rejected all positive fiscal corrections on the COGS account. The CV was dissatisfied with SKPKB on 2011 Corporate Income Tax Number 00002/206/11/002/13 resulting in an obligation of the tax underpayment. The company also disagreed with the objection decision number KEP-580/WPJ.20/2014 because the CV had provided all documents and additional data requested by the objection reviewer so that the latter could joyfully consider those data in proceeding with the examination on the CV's objection case.

CV Cipta Wirasa ensured that all purchases and their related payments had been recorded in the general ledger books and can also be traced. So, the positive correction for all purchases for which there was no Input Value Added Tax (VAT) reflected that the tax auditor and the tax reviewer did not acknowledge the purchase transactions of Non-VAT goods. The DJP had abandoned the facts clearly stated in the books that there were sales of those inventoriable goods. Such sales were included in the gross sales reported in the financial statements and 2011 Annual Corporate Income Tax Return.

Furthermore, the positive correction had caused the absence of COGS in the sales of non-VAT goods. So, the correction was certainly against the basic principle of accounting of *"Matching Cost Against Revenue"*. The CV claimed that both the tax auditor and objection reviewer had failed to understand the inventory cost flow of the corrected items. If the DJP tested the cost flow properly, then the DJP can clearly see that the purchases of corrected inventories were included in the cost movement of the goods. Based on the inventory cost flow, the purchases of non-VAT goods were uncontestedly correct.

#### **The COGS Controversy Episode 5: The Ludicrous Reason for A Win**

Considering the reasons from both disputants, CV Cipta Wirasa and DJP, the panel of judges gave the provisional conclusion towards the case. The panel of judges had examined the CV's appeal application and concluded that the formal requirements had been fulfilled. In this appeal

dispute, the panel of judges only examined the technical material in the SKPKB and the Decision on Objection. The panel elaborated the root cause of the tax dispute which was the COGS component. The panel then continued the review on compensation for losses, tax rates, tax credits, and another important component of the dispute such as administrative sanctions.

The panel then collected and analyzed supporting data to understand the development of the tax dispute including data derived from notes, and information that was not previously submitted in the tax audit process or objection phase. Those data were: (1) the invoices for Non-VAT inventory purchases from PT Dalem Ageng which had the remaining amounts of Rp3,369,852,727.00 without bank validation; (2) information from selling partners: name, address, NPWP; (3) contract documents for the inventory purchases; (4) purchase orders.

The panel of judges found that the DJP used the 2011 adjusted net income of Rp8,252,353,852 as the basis for issuing the SKPKB while the CV Cipta Wirasa was applying the 2011 original net income of Rp40,998,272 as the basis. So, the difference before objection was Rp8,111,355,580 consisting of (1) positive correction of 2011 COGS of Rp8,196,399,417; and (2) positive correction of other income of Rp14,956,163. The CV filed an objection for the 2011 adjusted net income of Rp8,252,353,852 stipulated in the SKPKB. The DJP approved for the positive correction of other income of Rp14,956.163. So, the calculation of adjusted net income was Rp8,196,399,417. During the tax objection process, the CV had approved a positive correction of Rp2,252,026,125 so that the total tax dispute before the appeal was submitted was Rp6,000,327.727.

The panel then reviewed the Bank Consolidation Report for the year 2011. The panel found that all payments made by CV Cipta Wirasa as the buyer to PT Dalem Ageng as the seller was recorded in the report so that the payments were matched and in line with the transactions that occurred between both parties. In the end, the panel decided that the positive correction of 2011 COGS of Rp6,000,327,727 was not valid and shall not be established. Consequently, the panel decided to fully grant the appeal submitted by CV Cipta Wirasa. Therefore, the DJP's objection decision number KEP-580/WPJ.20/2014 dated June 16, 2014, was canceled. Table 7 shows the appeal decision's income tax payable summarized from the Episode 1 to 5.

Table 7. The End of COGS Chronicle

Net Income	:	Rp2,252,026,125
Taxable Income	:	Rp2,252,026,125
Income Tax Payable	:	Rp563,006,500
Tax Credits	:	(Rp1,260,898,608)
Tax Overpayment	:	(Rp697,892,108)
Administrative Sanctions	:	Rp0
Total Tax Overpayment	:	(Rp697,892,108)

### The Only Way to Win is Reflection!

Based on the aforementioned chronicle, there is a gap in the tax laws and regulations used artfully by CV Cipta Wirasa. If the taxpayer has a reserve fund to pay the tax debt in the SKPKB and strong confidence as well as pieces of evidence that the taxpayer can win the appeal at the Tax Court, the main option is to pay the minimum threshold of tax payable to file an appeal at the Tax Court. The taxpayer can also choose not to provide any influential proofs during the tax audit phase and the tax objection stage. The taxpayer can wisely reveal such proofs in front of the highness judges of Tax Court to clinch the win and erect the building-block of justice. Yet the taxpayer can freely extort some money from the state account by exploiting the 2% monthly interest compensation. If it is not detrimental then what else.

## 5. CONCLUSION

The purpose of this paper is to explain the background of the tax dispute, the practice of implementing tax audit procedures at the mezzo level, the examination process of tax objection at the regional level, and tax appeal conquest at the Tax Court. This research provided the obstacles found in implementing each process at every tax dispute stage. There are several preparations in the form of introducing the taxpayer's business classification, selecting the type of tax audit, and collecting documents. Furthermore, in the process of checking the documents, the main materials are processed in the Audit Working Paper. The main obstacle of the tax audit process is to ask for related records, data, and information as the basis of taxable income from taxpayers. If such obstacle does exist, the tax auditor will make a decision based on the improper tax audit documents.

The taxpayer who is dissatisfied with the determination of the audit results can file an objection request to the DJP Regional Office. The objection reviewer processes the request through a

series of examination and verification. The process of preparing and implementing an objection examination is mostly the same as the tax audit process. Notes, data, and information from taxpayers are the main documents that become the source of objection review. The taxpayer is obliged to provide the requested documents at a predetermined time. The requested documents are necessary documents for the tax objection process and asked by the objection reviewer formally. Apart from these criteria, the data submitted are not treated as legal objection documents. The tax objection shall conform to the audit process. The prolonging problem always arises in the objection process when the taxpayer does not provide the requested data. Thus, the examination procedures shall continue with the available data. As a consequence, the objection decision will be formulated not based on actual conditions but adjusted to the reasonableness of a modest data analysis. Due to these data limitations, the objection reviewer oftentimes decides to reject the objection request submitted by the taxpayer.

The taxpayer himself has the right to file an appeal on the rejected objection to the Tax Court. The tax dispute is processed in an appeal request submitted to the tax tribunal. The appeal process begins with the fulfillment of all formal requirements. Furthermore, the tax court panel of judges will ask for an explanation of the appeal request along with supporting documents. In conducting the trial, the taxpayer will be allowed to bring new evidence, which is not previously submitted during the tax audit and objection process, to support his argument. With this new evidence, the tax court will arguably provide different trial results. The panel of judges then will ask for a response letter from the DJP to explain the chronology of the tax audit and objection process. The panel shall also ask for the information from the taxpayer in form of a Rebuttal Letter to respond to DJP's argument. The panel will decide the trial result based on the disputant's argument.

## 6. IMPLICATION AND LIMITATION

The biggest challenge in winning the tax dispute at the objection level is documents provided by taxpayers. In practice, the objection decision stipulated by the DJP is based on submitted data. It is necessary to make rules and counseling that can make the taxpayer aware of the importance of providing correct records, data, and information according to the list of the data requested by the DJP. The legal bases used as the foundation for making tax dispute resolution are tax laws and regulations. However, those regulations become a way for the taxpayer to express in the tax appeal petition. The taxpayer often uses other legal bases so that those bases will be appropriate to become the bases for a rebuttal letter in the appeal trial. So, it is necessary to expand understanding of other legal bases of various laws and regulations in issuing the tax assessments notice. Apart from that, it is necessary to make creative regulations governing the terms of giving interest compensation like interest compensation can only be given to the taxpayer who has properly and correctly fulfilled the tax audit, tax objection, and tax appeal procedures. The preventive effort against a deceiving taxpayer is by increasing taxpayer compliance as taxes are the fundamental source of state revenue for developing the country. The taxpayer's contribution is the main path for the prosperity of Indonesia.

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