ANALYSIS OF DISPARITY IN JURISPRUDENCE OF SUPREME COURT DECISIONS REGARDING ARTICLE 26 INCOME TAX RATE FOR PKP2B HOLDERS

Agus Susetyo[1*], Appe Hutauruk[2], Hotman Sinambela[3], Fendi Maruba Parlindungan Hutahaean[4]
[1,2,3,4]Program Studi Ilmu Hukum, Fakultas Hukum, Universitas Mpu Tantular, Jakarta, Indonesia
susetyo.consulting@gmail.com[1*], appehturuk@gmail.com[2], hotmanbertaok@gmail.com[3], fendihutahaean@gmail.com[4]

Abstract

This study aims to analyze the pattern of conflict or inconsistency in the Supreme Court's jurisprudence regarding the determination of Article 26 Income Tax (PPh) rates for holders of Coal Mining Business Work Agreements (PKP2B). The main focus of this study is to collect forms of disparity in legal considerations (decision ratios) of Supreme Court judges in deciding Judicial Review (PK) cases that are released on conflicts of contract law regimes, domestic tax law, and international law. The research method used is normative legal research (normative juridical) using a statutory regulatory approach (statutory approach), a case approach (case approach), a contextual approach (conceptual approach), and a comparative approach (comparative approach). Data were collected through a literature review method to trace primary legal materials in the form of court decisions and laws, as well as secondary and tertiary legal materials, which were then analyzed qualitatively with deductive reasoning. The results of the study indicate that the pattern of jurisprudential disparity is divided into two opposing tendencies: first, a contractual approach that prioritizes the principle of lex specialis derogat legi generali to protect fiscal stabilization clauses in PKP2B; and second, a public law approach based on the principle of lex posterior derogat legi priori which emphasizes that tax law is coercive. This disparity is further complicated by considerations based on the principle of pacta sunt servanda which prioritizes the supremacy of Double Taxation Avoidance Agreements (P3B). This study concludes that the clash of legal paradigms, coupled with the less-than-optimal nomophilia function of the Supreme Court, has created legal activists who have the potential to undermine global investor confidence and prolong horizontal tax conflicts. Comprehensive harmonization of the intersection of norms governing this strategic sector is urgently needed.

Keywords: Jurisprudential Disparity, Income Tax Article 26, PKP2B, Legal Certainty, Ratio Decidendi

INTRODUCTION

Tax is a key source of state revenue and plays a strategic role in supporting national development. In the Indonesian tax system, Income Tax (PPh) is a crucial instrument, including the imposition of Article 26 Income Tax on income received or accrued by Foreign Taxpayers (WPLN) from Indonesia, such as dividends, interest, and royalties (Aulia, 2022). This provision generally sets a rate of 20% or follows the rate stipulated in the Double Taxation Avoidance Agreement (P3B). In the coal mining sector, there is a Coal Mining Business Work Agreement (PKP2B), a contract between the Indonesian government and a mining company. PKP2Bs generally contain specific provisions regarding the tax regime applicable to the parties, including the principle of lex specialis derogat legi generali, meaning that specific provisions in the contract override general provisions. PKP2Bs often use the prevailing principle, meaning that the tax provisions in effect at the time the contract is signed remain in effect throughout the contract period (Solihat, *et. al.*, 2024).

Problems arise when the Directorate General of Taxes (DGT) applies the general provisions of Article 26 Income Tax to PKP2B holders, particularly in payment transactions to WPLN (Hastica, *et. al.*, 2025). Disputes often arise regarding the taxation of dividends or royalties, including when the Directorate General of Taxes (DGT) reclassifies costs as dividends and then subject to Article 26 Income Tax. This creates differing interpretations between taxpayers and tax authorities regarding whether the provisions of the PKP2B remain valid as lex specialis or must comply with the current general tax provisions. The crucial issue becomes even more complex when there are differences in interpretation between the tax rates stipulated in the PKP2B contract and those stipulated in the Double Taxation Avoidance Agreement (P3B) or tax treaty. In this context, the PKP2B, as a binding contract between the parties, often contains specific fiscal provisions, including those related to the applicable tax rates during the contract period. P3B is an international legal instrument ratified by countries and aims to avoid double taxation and provide more lenient tax treatment for foreign taxpayers. This difference gives rise to a conflict of norms between the contractual legal regime and the international legal regime that has been adopted into the national legal system. In practice, the Directorate General of Taxes tends to apply tax rates based on the provisions of the PKP2B or even domestic provisions deemed more reflective of state revenue interests. This approach is often based on the argument that the PKP2B is a special, binding agreement and reflects a stability clause that cannot be changed unilaterally, including by international provisions established after the contract is signed (Faza, *et. al.*, 2026).

Conversely, from the taxpayer's perspective, the P3B or tax treaty is seen as having a higher status or at least should be prioritized, given its nature as an international agreement that has been ratified by the state and is legally binding. Taxpayers argue that the application of preferential rates in the P3B is a right guaranteed by international law and should not be overridden by provisions in the PKP2B contract or less favorable domestic provisions. In this regard, the principle of pacta sunt servanda in international law is often used as the basis for the argument that states are obligated to honor agreed international commitments. The conflict of interest between the tax authorities and taxpayers ultimately leads to tax disputes that are resolved through judicial mechanisms, starting from the Tax Court to further legal efforts in the form of cassation and judicial review (PK) at the Supreme Court of the Republic of Indonesia. In this process, judges are faced with fundamental issues regarding the hierarchy and harmonization of legal norms, namely whether the provisions in the PKP2B as a special contract should be prioritized, or the provisions in the P3B as part of ratified international law that should apply (Mastan, 2025).

This issue concerns not only the technical aspects of taxation but also fundamental principles of the legal system, such as legal certainty, fairness, and consistent application of norms. Unclearness in determining which norms should be prioritized has the potential to lead to inconsistencies in court decisions, ultimately increasing legal uncertainty for the parties. Furthermore, this situation can also lead to an increase in the number of tax disputes, as each party has an equally strong legal basis for defending its position. These disputes often escalate to the judicial level, including the Supreme Court of the Republic of Indonesia. In practice, there are differences or disparities in Supreme Court decisions regarding the application of Article 26 Income Tax rates for PKP2B holders. Some decisions tend to recognize the applicability of the lex specialis principle in PKP2B, while others emphasize the application of general tax provisions. These differences indicate an inconsistency in jurisprudence that has the potential to create legal uncertainty (Judijanto, 2025).

This disparity is evident in the two approaches to judicial deliberation. On the one hand, some decisions recognize the validity of a PKP2B as a special agreement (lex specialis), so that the tax provisions contained therein must take precedence over general tax provisions. From this perspective, judges view PKP2B as a form of state commitment that must be respected to guarantee legal stability to investors, including in determining applicable tax rates. On the other hand, there are also decisions that place greater emphasis on the application of general tax provisions as stipulated in laws and regulations. This approach is based on the assumption that tax law is part of public law that is mandatory and cannot be overridden by agreements, including PKP2B. Therefore, under certain conditions, the application of the general rate of Income Tax Article 26, including for income reclassification by the tax authorities, remains legally valid. These differences in interpretation indicate an inconsistency in jurisprudence, particularly in understanding the relationship between the contractual provisions in PKP2B and generally applicable tax law norms. This inconsistency not only reflects the lack of uniformity in the methods of legal interpretation by judges, but also indicates the potential for disharmony between the contract law regime and public law in the field of taxation (Ihsan, *et. al.*, 2025).

This situation ultimately has implications for legal certainty. Under the principle of a state based on the rule of law, legal certainty demands clarity and consistency in the application of legal norms, thus providing predictable guidance for the public, including taxpayers. However, if there are different rulings on similar cases, uncertainty arises as to which legal norm should be followed. This has the potential to increase the risk of disputes, increase the burden on taxpayers' compliance, and raise doubts about the implementation of tax obligations. Legal uncertainty resulting from disparate rulings can also have a broader impact on the investment climate, particularly in the coal mining sector, which is highly dependent on long-term regulatory stability. Investors generally require certainty regarding fiscal aspects, including the tax rates that will be imposed. Therefore, inconsistencies in court rulings have the potential to undermine trust in Indonesia's legal and regulatory system (Prasetyawati & Fuadah, 2025).

The disparity in jurisprudence in the Supreme Court of the Republic of Indonesia (MA) rulings regarding the determination of Article 26 Income Tax (PPh) rates for PKP2B holders is fundamentally linked to differing approaches to legal interpretation. The difference primarily lies in the conflict between the application of the principle of lex specialis derogat legi generali, which positions the PKP2B as a special provision binding on the parties, and the principle of lex posterior derogat legi priori, which emphasizes the applicability of more recent tax laws, particularly provisions in the Income Tax Law relating to Article 26 Income Tax. On the one hand, the lex specialis approach positions the PKP2B as a binding contract and guarantees legal stability, including in terms of tax rate regulations. This is based on the principle that special provisions agreed upon by the parties, particularly in long-term contracts such as PKP2B, must be respected to maintain investor confidence and ensure legal certainty in mining business activities. Therefore, changes to tax provisions in legislation should not automatically override the provisions agreed upon in the contract (Sania & Furqon, 2026).

The lex posterior approach emphasizes that provisions in more recent tax laws should take precedence, given that tax law is a part of public law that is generally binding and binding. From this perspective, the state, through its tax authorities, has the authority to adjust fiscal policies, including Article 26 Income Tax rates, in accordance with economic developments and state revenue needs (Adiman, 2025). Therefore, the provisions of the PKP2B cannot override the application of newer laws. These differing approaches are then reflected in the inconsistent decisions of the Supreme Court, giving rise to disparities in jurisprudence. In cases with similar characteristics, some decisions prioritize the validity of the PKP2B as lex specialis, while others prioritize the provisions of tax law as lex posterior. This situation indicates a lack of consistency in legal interpretation by the Supreme Court, as the highest judicial institution, which should play a role in creating uniform application of the law. The impact of this disparity in jurisprudence is significant for legal certainty (Putri, *et. al.*, 2025).

The lack of uniformity in decisions leaves investors, particularly in the coal mining sector, with insufficient predictability regarding their tax burdens. Yet, in long-term investment activities, certainty regarding fiscal aspects is a crucial factor in investment decision-making. This uncertainty not only increases legal risks for investors but also has the potential to reduce the attractiveness of investment in Indonesia. Furthermore, this situation also highlights the urgent need to harmonize contractual provisions in PKP2B and tax laws and regulations. One possible approach is through the establishment of a permanent jurisprudence by the Supreme Court to ensure uniformity in decisions. Furthermore, it is necessary to reinforce norms through legislation, for example in the form of Government Regulations, which explicitly regulate the relationship between PKP2B provisions and applicable tax provisions, to avoid multiple interpretations. Recent research in the field of taxation has focused largely on the modernization of tax system administration (Korat & Munandar, 2025), international tax policies such as the Global Minimum Tax to prevent tax evasion (Imelda & Mukhtaruddin, 2025), and analysis of taxpayer compliance behavior at the micro or MSME level (Amanda, et. al., 2024). Although these studies have made significant contributions to optimizing state revenue, there is a significant research gap in the literature regarding how conflicts in tax law norms are resolved at the judicial level, particularly regarding multinational strategic investment disputes. Previous studies have not addressed the issue of disparities in legal interpretation by the cassation or judicial review panel of the Supreme Court. Specifically, there has been no comprehensive study examining jurisprudential inconsistencies (application of the lex specialis versus lex posterior principle) related to the determination of Article 26 Income Tax rates for entities holding Coal Mining Business Work Agreements (PKP2B). In fact, resolving conflicts between the contract law regime (PKP2B), the domestic tax law regime (the Income Tax Law), and international legal instruments (P3B) has crucial implications for legal certainty and the investment climate in the mining sector. Therefore, this study aims to fill this gap in the literature by examining the rationality of judges (ratio decidendi) and the impact of disparate Supreme Court decisions on legal certainty.

This research is crucial for understanding the pattern of conflict (inconsistency) in Supreme Court jurisprudence regarding the determination of Article 26 Income Tax rates for service payments to foreign taxpayers by PKP2B holders (a 10% rate based on PKP2B vs. 20% based on Article 26 of the Income Tax Law and/or P3B) and for understanding the forms of disparity in legal reasoning (ratio decidendi) among Supreme Court justices in deciding judicial review (PK) cases related to the determination of Article 26 Income Tax rates for PKP2B holders.

RESEARCH METHODS

This research is normative legal research (normative juridical) that focuses on examining legal norms related to the disparity of Supreme Court jurisprudence in determining

Article 26 Income Tax rates for PKP2B holders and its implications for legal certainty. To dissect this issue, this research uses a statute approach, a case approach, a conceptual approach, and a comparative approach. Data collection was carried out through a library research method that includes tracing primary legal materials (such as Supreme Court decisions and related laws), secondary legal materials (literature and journals), and tertiary legal materials. All collected legal materials were then analyzed qualitatively using deductive reasoning that is, starting from general legal rules and theories to specific facts in contradictory Supreme Court decisions to draw conclusions regarding the causes of disparities and their impacts.

RESULT AND DISCUSSION

Taxes are a primary source of state revenue and play a strategic role in supporting the administration and national development. In Indonesia's tax system, taxes are viewed as a mandatory contribution paid by individuals and entities to the state. This payment is based on statutory provisions without any direct reciprocal payment or service, and is ultimately used for the greatest possible prosperity of the people, in line with the principles of a welfare state. This aligns with Rochmat Soemitro's view, who defined taxes as contributions made by the people to the state treasury, enforced by law, without any direct reciprocal payment, to finance general state expenditures. This definition is crucial because it emphasizes the position of taxes as a coercive public legal instrument for the benefit of the state. Among the various tax instruments available, Income Tax (PPh) is a particularly vital one. PPh is levied on any additional economic capacity received or accrued by taxpayers, whether sourced domestically or internationally, that can be used for consumption or to increase the taxpayer's wealth.

Specifically, the imposition of Article 26 of Income Tax plays a crucial role in the context of international taxation in Indonesia. Article 26 Income Tax is a domestic fiscal legal instrument that specifically regulates tax deductions on income sourced from Indonesia, received or obtained by Foreign Taxpayers (WPLN) other than permanent establishments (PE). The objects of Article 26 Income Tax are very diverse, including dividends, interest (including premiums, discounts, and compensation in connection with debt repayment guarantees), royalties, rent, compensation in connection with services, gifts, awards, pensions, and profits from debt relief. Normatively, Article 26 Income Tax is regulated in Law Number 7 of 1983 concerning Income Tax as amended several times, most recently through Law Number 7 of 2021 concerning Harmonization of Tax Regulations and Law Number 6 of 2023. This provision generally sets a generally applicable tax rate of 20% of the total gross income received by foreign taxpayers, unless there are other provisions specifically regulated in the Double Taxation Avoidance Agreement (P3B).

From a dogmatic perspective, Income Tax Article 26 adheres to a collection system known as a withholding tax. This withholding tax mechanism places the obligation to withhold, remit, and report tax not on the foreign taxpayer as the recipient of the income, but rather on the domestic legal entity or the party paying the income. This mechanism positions the income payer as the withholding agent, who bears crucial administrative obligations. Furthermore, the withholding of Income Tax Article 26 is generally final, with certain exceptions further regulated by law. Regulations regarding the object, rate, and mechanism of this withholding form an important foundation for comprehensively assessing how the law applies to entities with special characteristics, such as companies holding Coal Mining Work Agreements (PKP2B).

A Coal Mining Work Agreement (PKP2B) itself is a legal instrument in the form of a contract or agreement between the Government of the Republic of Indonesia and an Indonesian legal entity for the purpose of conducting coal mining activities. This contract was created as part of the government's strategic policy to attract foreign investment in the mining sector, while also aiming to provide long-term legal certainty to investors. In practice, a PKP2B not only regulates technical matters regarding mining operations but also generally contains very specific provisions regarding the tax regime and financial obligations applicable to the contracting parties. PKP2Bs have very unique characteristics and are categorized in legal doctrine as sui generis contracts. This means that PKP2Bs combine elements of both private and public law.

The private law character of PKP2Bs is clearly reflected in the position of the contracting parties within the civil contractual framework. This civil relationship is subject to the principle of freedom of contract or consensualism, as well as the principle of pacta sunt servanda, as stipulated in Article 1338 of the Civil Code. However, the presence of the Government of the Republic of Indonesia as a party to the contract provides a very strong public law dimension. In this case, the government acts not merely as a pure civil law subject, but as the holder of the State's Right to Control (HMN) over natural resources based on the constitutional mandate of Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. Therefore, PKP2B always contains clauses that regulate public affairs, including in fulfilling state revenues in the form of fiscal, environmental conservation, and management of national strategic commodities. Adrian Sutedi stated that PKP2B is a form of work contract that gives rise to a civil relationship between the state and investors but in substance contains elements of public law, especially in the field of taxation.

One of the most fundamental features of a PKP2B contract is the tax stabilization clause. This clause is specifically designed to protect PKP2B holders against any changes in tax policy that may occur during the term of the long-term contract. To achieve this stabilization, PKP2Bs often utilize the prevailing principle. This prevailing principle means that the recognized and applicable tax provisions are those at the time the contract is signed, and these provisions remain in effect and binding throughout the contract period, regardless of any subsequent regulations. This makes PKP2Bs subject to the legal principle of lex specialis derogat legi generali, meaning that special provisions contained in the contract have the right to override general legal provisions.

Complex and layered legal issues began to emerge when the Directorate General of Taxes (DGT), as the country's fiscal authority, applied the general provisions of Income Tax Article 26 to PKP2B holders. This application specifically occurs in various transactions involving payments of compensation, dividends, interest, or royalties made by PKP2B holders to foreign taxpayers. Tax disputes frequently arise regarding the taxation of dividends or royalties, particularly when the Directorate General of Taxes (DGT) reclassifies costs. In practice, the DGT frequently reclassifies costs incurred by a company as disguised dividends, which in turn are immediately subject to Article 26 Income Tax. This action gives rise to sharp differences in interpretation between taxpayers and the tax authorities. The core of these differences revolves around the question of whether the provisions of the PKP2B remain valid as lex specialis, or whether taxpayers must absolutely comply with the current general tax provisions.

This normative conflict becomes even more complex and crucial when it intersects with international legal instruments, namely the Double Taxation Avoidance Agreement (P3B), or tax treaty. A P3B is a binding international agreement between two countries with the primary objective of avoiding double taxation of the same taxpayer and attempting to provide lighter tax treatment or preferential rates for foreign taxpayers. According to Erly Suandy, the existence of Tax Treaties (P3B) plays a crucial role in providing legal certainty and strategically encouraging international investment through tax rate reduction instruments and regulating taxation rights between the countries involved. Therefore, the problem crystallizes in diametrically different interpretations regarding which rate should be applied. Three conflicting legal regimes exist here: the contractual legal regime (PKP2B), which is often simplified and imposes a specific rate, such as 10%; the domestic legal regime (Article 26 Income Tax Law), which sets a general rate of 20%; and the international legal regime (P3B), which offers preferential rates. The discrepancy between the provisions of the Article 26 Income Tax rate in the PKP2B contract and the preferential rate in the P3B ratified by the country is the core of the problem identification in this study.

Conflicts of interest between tax authorities and taxpayers ultimately lead to lengthy and protracted tax disputes. These disputes must be resolved through a series of judicial mechanisms, beginning with the Tax Court and often culminating in an extraordinary legal remedy in the form of a Judicial Review (PK) at the Supreme Court of the Republic of Indonesia. In deciding these cross-regime disputes, Supreme Court justices are faced with fundamental legal issues concerning the hierarchy of laws and the harmonization of legal norms. Judges must carefully determine which norm should prevail in these multinational and contractual disputes. However, the lack of a standardized understanding at the judicial level has led to a pattern of conflicting or inconsistent Supreme Court jurisprudence regarding the determination of Article 26 Income Tax rates for service payments to foreign taxpayers by Contract of Work (PKP2B) holders. This pattern of conflict clearly demonstrates the conflict between decisions establishing a rate based on the PKP2B and decisions setting a 20% rate based on Article 26 of the Income Tax Law and/or Tax Treaty (P3B).

The pattern of conflicting jurisprudence in the Supreme Court can be seen from two major, opposing tendencies. In the first pattern, there is a series of Supreme Court decisions that tend to recognize and protect the validity of the lex specialis principle contained in the PKP2B. This pattern places the fiscal clause in mining contracts as a special rule that must take precedence and cannot be overridden by subsequent general regulations. This approach is based on the argument that PKP2B represents a special agreement and binding commitment from the state, containing an element of stability clause and therefore cannot be changed unilaterally by the government through changes to domestic provisions or through international instruments created after the contract is signed and takes effect. On the other hand, there is a second pattern of decisions that, in contrast, emphasizes and prioritizes the application of general tax provisions as explicitly stated in the domestic legislation in force at the time of the dispute. This second pattern is guided by the assumption that tax law is essentially an integral part of public law with a coercive character. Therefore, domestic tax law is seen as not being able to be simply overridden by a civil agreement or business contract, including PKP2B. Within this framework, the state, through its tax authorities, is viewed as having absolute authority to adjust fiscal policy, including setting and adjusting Article 26 Income Tax rates, in accordance with the dynamics of national economic development and the level of state treasury revenue needs.

Answering the second research objective regarding the disparities in legal reasoning, or ratio decidendi, of Supreme Court justices in deciding judicial review disputes, this disparity essentially stems from fundamental differences in approaches to legal interpretation. Legal interpretation is a judicial cognitive process for seeking and understanding the true meaning of a legal norm. Various interpretive methods clash in these decisions, ranging from grammatical interpretations that adhere purely to the text of the law, to systematic interpretations that examine the correlation between norms, to historical interpretations that trace the background of the law's formation, to teleological interpretations that rely on the true purpose of the law itself. The most striking and fundamental form of disparity in ratio decidendi lies in the paradigmatic conflict between the application of the principle of lex specialis derogat legi generali and the principle of lex posterior derogat legi priori.

The lex specialis approach to ratio decidendi firmly positions the PKP2B as a contractual agreement with absolute binding force and guarantees real legal stability, particularly regarding tax rate regulation. The philosophical basis for this ratio decidendi rests on the civil principle that specific provisions consciously agreed upon by the parties, especially in long-term contracts such as PKP2Bs, must be fully upheld and respected to maintain and safeguard the trust of both foreign and domestic investors. This approach believes that protection of these contracts is essential to ensuring legal certainty in the national mining business environment. From this legal perspective, any changes, amendments, or new tax provisions within the legal framework are essentially ineffective in immediately annulling or overriding the static tax provisions already locked in or agreed upon within the PKP2B contract.

In contrast, the lex posterior derogat legi priori approach to ratio decidendi offers a completely different and opposing legal argument. This legal reasoning firmly emphasizes that normative provisions in newer tax laws automatically take precedence in their applicability. This is firmly grounded in the doctrine that tax law is purely a subsystem of public law, equipped with a coercive instrument that is universally binding on everyone. This ratio decidendi is strongly influenced by the principle of tax legality (nullum tributum sine lege) recognized in tax law. This fundamental principle underscores and affirms that the state cannot and should not collect a single cent of tax without a clear legal basis in the form of a law. However, in parallel, the same principle is also often used as strong legitimacy by tax authorities and some Supreme Court justices to legalize the implementation of general, imperative tax provisions, including Article 26 Income Tax. Based on this rationale, they conclude that the presence of specific provisions in PKP2B business contracts simply does not have sufficient legal standing to override or block the applicability of more recent tax laws.

Furthermore, from the perspective of international treaty law, there is also a form of disparity in ratio decidendi involving the debate over the supremacy of Double Taxation Avoidance Agreements (DTAs). Taxpayers often position their arguments on the view that DTAs or tax treaties must be considered to have a hierarchically higher legal standing or at least must always be prioritized in any dispute. This argument is supported by the fact that DTAs are a manifestation of an international agreement that has been officially ratified by state institutions and therefore has strong legally binding force domestically. Taxpayers narrate extensively that the application of preferential rates stipulated in DTAs is a fundamental right guaranteed by the international legal regime. Adhering to the principle of pacta sunt servanda in the context of international law, states are considered to have a non-negotiable moral and legal obligation to honor all mutually agreed-upon international commitments. With this kind of logical flow, some of the Supreme Court's decisions confirm that the provisions of the P3B should not be set aside for any reason, whether by the rigid provisions contained in the PKP2B contract, or by general domestic tax provisions which are deemed less beneficial to the interests of the taxpayer.

All forms of disparity in legal considerations (ratio decidendi) reflect the existence of a legal phenomenon that demonstrates the reality of inconsistent law enforcement within the highest judicial institution of the Republic of Indonesia. This legal phenomenon clearly indicates that the Supreme Court justices have not yet achieved a unified, standard paradigm in determining the legal relationship between fiscal clauses in PKP2B contracts, on the one hand, and the highly imperative provisions of national tax law, on the other. From a more macro-level legal theory perspective, this concerning condition clearly reflects an essential clash of legal paradigms. The first paradigm is based on a private law approach that glorifies absolute respect for the stability of a contract and the protection of crucial investor interests based on the principle of contractual legal certainty. Meanwhile, the second paradigm stands firmly on the foundation of a public law approach that places the urgency of maximally securing the state's fiscal interests and upholding tax sovereignty above all else as a top priority in the process of law enforcement. When these two opposing paradigms meet in the judicial practice arena without being guided by uniform and binding interpretative guidelines, it automatically gives rise to a high degree of disparity in jurisprudence.

This inconsistency and disparity in the Supreme Court's jurisprudence undoubtedly have extraordinary and serious implications for the enforcement of the principle of legal certainty in Indonesia. This situation is highly relevant to further examination because legal certainty is one of the many fundamental principles that must be present within the framework of a country's legal system, including tax law. According to experts, legal certainty embodies the essence of ensuring that all forms of law provide clear clarity, precise consistency, and predictability in every step of their application. Gustav Radbruch, a leading legal philosopher, posits that legal certainty is one of the three pillars of basic legal values, alongside justice and utility. Radbruch's theory, proposed in 1943, requires law to be certain so that the wider community can obtain genuine protection against various forms of arbitrary action. In line with this, Lon L. Fuller emphasized and asserted that a legal system can only be considered good law if it successfully meets a series of specific principles, including clarity of norms and consistency of application. In the field of taxation, this principle of legal certainty is essential because it is directly, clearly, and inseparably related to the structure of rights and obligations borne by each taxpayer.

Sudikno Mertokusumo, in his discourse, also stated that the concept of legal certainty, in principle, requires the realization of real equality in the application of the law to various types of cases proven to have similar or identical characteristics and substance. If a precedent arises where the courts issue differing and overlapping decisions on several legal cases that actually contain material with uniform characteristics, this distortion will inevitably trigger widespread legal uncertainty. This is because society and legal subjects in general lose predictability regarding how the law will be applied to them in the future. Another legal expert, Fence M. Wantu, also firmly reminded that a law that is completely devoid of certainty will lose its true meaning and spirit, because the law becomes completely inappropriate and can no longer be relied upon as an instrument for guiding normative behavior for the entire social order.

The continuing impact of uncertainty in the application of legal norms, specifically rooted in disparities in court decisions, will lead to a drastic decline in global investor confidence, potentially seriously hampering the investment climate in the vital coal mining sector. This lack of uniformity in court decisions means that investors, especially those actively involved in the coal mining sector, which requires significant capital, no longer have adequate predictability regarding the actual magnitude of the future tax burden imposed on their entities. Yet, in any long-term business investment agenda, mathematical certainty regarding financial and fiscal aspects is the most determining factor in every investment decision-making process. Gunadi also believes that legal certainty in the taxation realm is a crucial attraction factor in the government's efforts to attract foreign investment into the country. This is logical, considering that every investor requires adequate legal assurance that the applicable tax regulations and policies will not undergo irrational changes or inconsistent revisions throughout the duration of their company's investment. Therefore, the emergence of disparities in Supreme Court decisions regarding the determination of Article 26 Income Tax rates will inevitably create a highly negative perception among the international community regarding the resilience of Indonesia's tax system, directly impacting the decline and waning confidence of multinational investors. This emergence of mass psychological doubt among taxpayers also sharply increases the potential risk of a prolonged surge in horizontal tax disputes. Consequently, this series of inconsistent judicial decisions also has administrative repercussions for state authorities. Tax officials in the field must face the bitter pain of structural and procedural difficulties in legally determining the most accurate legal basis for carrying out a series of tax collection and audit tasks against corporations holding PKP2B contracts.

At a more macro-level of justice, this cross-jurisdictional dispute situation and disparity in judicial rationality emphasize the existence of an anomaly or functional rift within the highest state judicial institution. As an institution positioned as the highest judicial institution and the apex court or court of last resort in the territory of the Republic of Indonesia, the Supreme Court naturally and constitutionally carries out an absolute function which in the discourse of state administrative law and justice theory is formally referred to as the nomophilacium function. The Supreme Court is burdened with a very heavy responsibility and absolute legal obligation to always act as the sole guardian institution for the purity, unity, uniformity, and maintenance of overall consistency in the realm of interpretation and application of positive legal products spread across the spectrum of the country's jurisdiction. The Supreme Court is strictly obliged to take preventive and early anticipatory measures to ward off the emergence of the danger of anarchy in the process of interpreting legal instruments that may be carried out incorrectly by court judges at the first level of competence such as the Tax Court or by judex facti judges at the appellate court level. The most central and effective managerial instrument that should be used to enforce and implement the agenda of this nomophilia function is by proactively forming and printing decisions that have the status of permanent jurisprudence of prime quality, as well as through the strategic instrument of issuing internal instructive policies in the form of Supreme Court Circular Letters (SEMA) or Supreme Court Regulations (PERMA).

In the legal procedures that guide the course of justice in the tax court environment, the existence and position of the jurisprudential instruments born from the womb of the Supreme Court should hold a very high level of urgency. This is not without reason, but rather triggered directly by the nature and reality that this national-scale tax regulatory instrument has a very hyperactive level of elasticity and dynamism in its changes. Law Number 14 of 2002 concerning the Tax Court definitively affirms that the Tax Court entity is essentially part of the subsystem of an official state judicial body that is operationally fully under the care and control of the technical guidance of the Supreme Court judicial institution. This legal configuration provides legitimacy and rational justification that every point of the Judicial Review (PK) decision ever issued by the leadership of the Supreme Court panel regarding legal disputes in the tax area ideally and absolutely contains binding force that must be obeyed. All of these supreme decisions must be positioned and believed in as a central guideline and serve as a legal compass for all formations of judges who rule in the Tax Court institution. However, in this crucial case concerning the dispute over the determination of the percentage of the Article 26 Income Tax withholding rate for business entities holding PKP2B, the legal standing and authority of this jurisprudential instrument ironically experienced an anomaly and a drastic weakening of its function. This decline in the effectiveness of jurisprudence was directly triggered by the outbreak of conflicting views and the emergence of disparities in the results of judicial review decisions within the Supreme Court Justices themselves. The conflicting orientations of judicial schools of thought, where in one courtroom, a portion of the panel of judges firmly bound their conscience and logic to past precedents that were characteristically biased towards the tax authorities, while at the same time, in another courtroom, the remaining portion of the Supreme Court justices chose the safe option of disciplinedly following the path of precedents that tended to sympathize with the direction of the pro-taxpayer defense, resulted in a disaster of legal certainty. This chronic situation slowly but surely succeeded in sucking up and disintegrating the validity and normative binding value that should be inherently inherent in the jurisprudential products of this mining commodity tax dispute.

As a definitive conclusion and closing discussion of the identification and phenomenon of this extraordinarily complex tax dispute, a holistic and sustainable understanding can be drawn that the ultimate implications of this legal event are extremely destructive. The ideal position and fundamental nature of jurisprudence, which within the architecture of upholding the supremacy of the rule of law should be entrusted with the honorable task of serving as a kind of lifeline to provide an atmosphere of legal certainty for the nation and state, has in fact ironically transformed into one of the main sources of the widespread spread of legal uncertainty. The absence of the nomophile function and the fragmented nature of jurisprudential reasoning on display at the highest level of the courts have directly and systematically prolonged the lifespan and duration of a never-ending chain of horizontal conflicts pitting the authority of the Directorate General of Taxes against a phalanx of giant corporations operating in strategic national mining commodities in the country. Thus, the serious problem related to the disparity in the substance of jurisprudence along with all the elements of the anatomical differences in the ratio decidendi between decisions in the vortex of the dispute over determining the right to tax Article 26 Income Tax for PKP2B work contract holders has metamorphosed from merely a technical administrative issue of calculating the obligation to deposit tax budgets into a dark reflection that reveals the reality of how big and urgent the need for fundamental improvement and complete harmonization of all aspects of the provisions of the normative cross-domain that regulate the strategic sector of multinational taxation in Indonesia.

CONCLUSIONS

The pattern of conflicting jurisprudence of the Supreme Court in determining the Article 26 Income Tax rate for PKP2B holders is characterized by two main tendencies that trigger disparities in the ratio of decisions (legal considerations) of judges. The first tendency is a contractual approach that favors PKP2B by using the principle of lex specialis derogat legi generali, in which judges prioritize fiscal clauses and stability clauses in contracts to maintain trust and certainty in the investment climate. In contrast, the second tendency is based on a public law approach that prioritizes tax law through the principle of lex posterior derogat legi priori, with the view that tax law is mandatory and cannot be overridden by civil agreements. In addition to these two views, the interpretation of disparities is also complicated by legal considerations based on the supremacy of Double Taxation Avoidance Agreements (P3B). Based on the principle of pacta sunt servanda, some judges consider that the right to preferential tariffs in international legal instruments has a higher hierarchical position, so it must absolutely be prioritized and cannot be set aside by domestic regulations or PKP2B contracts.

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