

ABSTRAK

PENERAPAN ASAS PROPOSIONALITAS (*PARI PASSU PRORATA PARTE*) DALAM PEMBAGIAN HARTA PAILIT TERHADAP PIUTANG PAJAK

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Prinsip proporsionalitas (*Pari Passu Prorata Parte*) dalam penyelesaian eksekusi harta pailit merupakan konsep yang penting dalam hukum kepailitan, bahwa dalam pembagian aset pailit yang telah dilaksanakan lelang eksekusi dan laku terjual, kreditor harus dibayar secara proporsional berdasarkan jumlah klaim mereka terhadap harta pailit tersebut. Penerapan prinsip proporsionalitas sangat penting untuk memastikan bahwa semua kreditor diperlakukan secara adil dan setara dalam proses kepailitan, serta untuk mencegah penyalahgunaan atau preferensi terhadap satu kreditor tertentu di atas yang lain. Penelitian ini dilakukan dengan tujuan untuk mengkaji penerapan asas proporsionalitas (*Pari Passu Prorata Parte*) dalam pembagian harta pailit terhadap piutang pajak dan untuk mengkaji status piutang pajak yang belakangan diketahui setelah proses lelang eksekusi dilakukan. Metode penelitian ini menggunakan jenis penelitian yuridis normatif dengan pendekatan peraturan perundang-undangan dan pendekatan studi kepustakaan. Hasil penelitian menunjukkan bahwa kedudukan kreditor separatis, kurator pailit dan piutang pajak dalam proses lelang eksekusi pada satu objek lelang telah diatur didalam Undang-Undang Nomor 37 Tahun 2004 tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang. Kurator memiliki kedudukan dalam pemberesan harta pailit tanpa harus menunggu harta pailit dalam keadaan tidak mampu membayar dan usaha debitor dihentikan yang diberikan hukum jaminan secara mutlak berlakunya kepada kreditor separatis yang tidak dapat dikalahkan oleh kedudukan kreditor-kreditor lainnya dan kedudukan piutang pajak adalah mendahului dari hak mendahului lainnya. Hasil penelitian penerapan asas proporsionalitas (*Pari Passu Prorata Parte*) dalam pembagian harta pailit terhadap piutang pajak adalah dimana kreditor konkuren berhak memperoleh hasil penjualan harta debitor setelah dikurangi kewajiban membayar piutang kepada para kreditor pemegang hak jaminan dan kreditor pemegang hak istimewa secara proporsional menurut perbandingan besarnya piutang masing-masing kreditor. Hasil penelitian Status piutang pajak yang belakangan diketahui setelah proses lelang eksekusi dilakukan menjadi gugur apabila telah melewati masa waktu penagihan sebagaimana diatur pada UU Kepailitan dan PKPU. Apabila masa penagihan belum melewati waktu yang telah ditentukan, Direktorat Jenderal Pajak selaku kreditor yang mewakili Negara dapat melakukan upaya hukum kasasi atau peninjauan kembali ke Mahkamah Agung sehingga tindakan tersebut dapat menyelamatkan penerimaan negara.

Kata Kunci: Kepailitan, Kreditor, Piutang Pajak

ABSTRACT

APPLICATION OF THE PRINCIPLE OF PROPORTIONALITY (PARI PASSU PRORATA PARTE) IN THE DISTRIBUTION OF BANKRUPTCY PROPERTY ON TAX RECEIVABLES

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The principle of proportionality (Pari Passu Prorata Parte) in the settlement of the execution of bankruptcy assets is an important concept in bankruptcy law, that in the distribution of bankruptcy assets that have been carried out at an execution auction and sold, creditors must be paid proportionally based on the amount of their claims against the bankruptcy assets. The application of the principle of proportionality is very important to ensure that all creditors are treated fairly and equally in the bankruptcy process, as well as to prevent abuse or preference for one particular creditor over others. This research was conducted with the aim of examining the application of the principle of proportionality (Pari Passu Prorata Parte) in the distribution of bankruptcy assets towards tax receivables and to examine the status of tax receivables which later became known after the execution auction process was carried out. This research method uses a normative juridical research type with a statutory regulation approach and a literature study approach. The research results show that the position of separatist creditors, bankruptcy curators and tax receivables in the execution auction process for one auction object has been regulated in Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations. The curator has a position in settling the bankruptcy estate without having to wait for the bankruptcy estate to be unable to pay and the debtor's business to be stopped, which is given by the guarantee law which is absolutely applicable to separatist creditors which cannot be defeated by the position of other creditors and the position of tax receivables is prior to the right of precedence. other. The results of research on the application of the principle of proportionality (Pari Passu Prorata Parte) in the distribution of bankruptcy assets towards tax receivables are that concurrent creditors are entitled to obtain the proceeds from the sale of the debtor's assets after deducting the obligation to pay receivables to creditors holding collateral rights and creditors holding special rights proportionally according to the ratio of the size of the receivables. each creditor. Research results: The status of tax receivables which were later discovered after the auction execution process was carried out will become invalid if the collection period has passed as regulated in the Bankruptcy Law and PKPU. If the collection period has not passed the specified time, the Directorate General of Taxes as the creditor representing the State can take cassation or judicial review to the Supreme Court so that this action can save state revenues.

Keywords: *Bankruptcy, Creditors, Tax Receivables*