

Pengajuan Kepailitan Setelah Adanya Pencabutan Izin Usaha Studi Kasus PT. Adam Skyconnection Airlines = Petition for the Declaration of Bankruptcy After Revocation of Business License (Case Study: PT. Adam Skyconnection Airlines)

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Abstrak

Kepailitan adalah sita umum atas semua kekayaan debitor pailit yang pengurusan dan pemberesannya dilakukan oleh kurator di bawah pengawasan hakim pengawas sebagaimana diatur dalam UUK-PKPU. Pada kasus kepailitan PT. Adam Skyconnection Airlines, pemohon dan termohon melakukan perjanjian kerjasama “Antar Jemput Crew” dan menyetujui jangka waktu perjanjian kerjasama ini berlaku selama satu tahun dan dapat diperpanjang atas persetujuan kedua belah pihak. Akan tetapi kerjasama ini tidak berjalan sebagaimana yang diharapkan pemohon, dimana armada pesawat terbang yang dioperasikan oleh termohon beberapa kali telah mengalami kecelakaan. Hal ini menunjukkan bahwa termohon telah lalai dalam menjalankan usahanya. Selain itu ijin usaha penerbangan termohon dicabut oleh pemerintah. Berkaitan dengan hal ini timbul permasalahan apakah memungkinkan untuk mengajukan permohonan pailit setelah izin usaha dicabut, dan bagaimana perjanjian kerjasama antara pemohon dan termohon dalam proses kepailitan? Tesis ini menggunakan sifat penelitian deskriptif analisis secara kualitatif. Dari hasil penelitian dapat diketahui bahwa masih dimungkinkan untuk mengajukan kepailitan setelah izin usaha dicabut, karena pada saat izin usaha dicabut, badan usaha termohon masih ada. Dengan demikian pencabutan izin usaha Adam Air tidak mempengaruhi permohonan pailit. Mengenai perjanjian kerjasama antara pemohon dan termohon, termohon harus tetap memenuhi kewajibannya walaupun ijin usahanya telah dicabut.

.....Bankruptcy means general seizure over all wealth of bankrupt debtor with management and settlement there of conducted by curator under supervision of supervising judge (Art. 1 (1) of Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations). In this bankruptcy case, the petitioner and the debtor binding in partnership agreement, well known as “Antar Jemput Crew” and has agreed the effective date of this agreement which regulate for one year partnership and possible to get extend the agreement with approval by The Parties. However, this partnership was not going well as expected by the petitioner, whereas the aircraft which operated by debtor has been through several accident. It shows the debtor has been neglect to perform their business. On the other hand, debtor’s business license revoked by the government. Relating to this case, problem has arise, is it possible to request petition for declaration of bankruptcy after revocation of Business License; and How about the partnership agreement between the petitioner and the debtor in a process of bankruptcy. This thesis is using descriptive analytic research methods and analyzing data using qualitative method. In summary, this case is possible to have petition for the declaration of bankruptcy after revocation of business license, it because when revocation has been done, debtor’s business entity is still exist, by this reason the revocation of Adam Air’s business license does not impact the petition for declaration of bankruptcy. Concerning the partnership agreement between the petitioner and debtor, the debtor still oblige to fulfillment payment order, but the petitioner does not have to fulfill their obligation because the debtor’s business license already revoke by the government.