

Keabsahan Third Party Invoice Untuk Memperoleh Tarif Preferensi Menurut ASEAN-China Free Trade Agreement (Studi Putusan Pengadilan Pajak No. Put-115377.19/2017/PP/M.XVIIA Tahun 2019) = The Legality of Third Party Invoice to Obtain Preferential Tariff According to ASEAN-China Free Trade Agreement (Study of Tax Court Decision No. Put-115377.19/2017/PP/M.XVIIA Year 2019)

Gusti Ayu Priyanka Draupadi, author

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Abstrak

Pembentukan ACFTA untuk mengurangi hambatan tarif dalam perdagangan barang diikuti dengan pengaturan Rules of Origin dalam ACFTA yang sebagaimana juga diatur oleh WTO. Berdasarkan ROO ACFTA, penggunaan Third Party Invoice diperbolehkan untuk memperoleh tarif preferensi ACFTA, namun penggunaannya rentan terhadap ketidaksesuaian dalam penetapan tarif. Penelitian ini menganalisis apakah Third Party Invoice sah untuk digunakan dalam memperoleh tarif preferensi menurut AROO WTO dan OCP ACFTA, dan menentukan apakah tarif preferensi ACFTA yang diperoleh CV Global Supply dengan menggunakan Third Party Invoice dalam Putusan Pengadilan Pajak No. 115377/2019 telah sesuai dengan OCP ACFTA. Penelitian yang menggunakan metode yuridis normatif dengan pendekatan undang-undang dan kasus ini menyimpulkan dua hal. Pertama, Third Party Invoice sah digunakan dalam memperoleh tarif preferensi menurut AROO WTO dan OCP ACFTA. Hal ini karena menurut AROO WTO Third Party Invoice telah memenuhi kewajiban transparansi GATT X:1 melalui pengesahan Second Protocol TIG ACFTA yang mengatur Third Party Invoice, dan menurut OCP ACFTA Third Party Invoice sah karena kerentanan ketidaksesuaiannya terhadap penetapan tarif telah diakomodasi dalam OCP ACFTA. Kedua, penelitian ini menyimpulkan bahwa tarif preferensi ACFTA yang diperoleh CV Global Supply dengan menggunakan Third Party Invoice dalam Putusan PP No. 115377/2019 telah sesuai dengan OCP ACFTA, yakni Aturan 23 tentang Third Party Invoice dan Aturan 17 tentang Minor Discrepancies

.....The establishment of ACFTA to reduce tariff barriers in trade in goods is followed by the setting up of the Rules of Origin in ACFTA which is also regulated by the WTO. Pursuant to the ACFTA ROO, the use of Third Party Invoice is allowed to obtain ACFTA preferential tariffs, but its use is vulnerable to discrepancies in tariff determination. This research analyses whether Third Party Invoice is legal to use in obtaining preferential tariffs according to the WTO AROO and ACFTA OCP, and determines whether the ACFTA preferential tariff obtained by CV Global Supply using Third Party Invoice in Tax Court Decision No. 115377/2019 is in accordance with the ACFTA OCP. This research, which applies the normative juridical method with a statutory and case approach, concludes two things. Firstly, Third Party Invoice is legal for use in obtaining preferential tariffs according to the WTO AROO and ACFTA OCP. This is due to the reason that according to AROO WTO Third Party Invoice has complied with the transparency obligation of GATT X:1 through the ratification of Second Protocol TIG ACFTA which regulates Third Party Invoice, and according to OCP ACFTA Third Party Invoice is valid because the vulnerability of its discrepancy to tariff determination has been accommodated in OCP ACFTA. Secondly, this study convincingly concludes that the ACFTA preferential tariff obtained by CV Global Supply using Third Party Invoice in Decision PP No. 115377/2019 is in accordance with the ACFTA OCP, namely Rule 23 on Third Party Invoice and Rule

17 on Minor Discrepancies.