

Discrepancies in Supreme Court Review Rulings on Tax Cases: Implications for Legal Consistency

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DOI: 10.23917/laj.v9i2.6587

Submission track :

Recieved :

05 September 2024

Final Revision :

07 November 2024

Available Online :

31 May 2025

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ABSTRACT

This study aims to explore the decision-making process in the Supreme Court and its impact on legal consistency through a normative approach and document analysis. The research focuses on Supreme Court Decision Number 4421/B/PK/Pjk/2023 regarding the Judicial Review of Tax Court Decision Number 000953.16/2022/PP/M.VB in 2022, which granted the Judicial Review request, as well as Supreme Court Decision Number 4696/B/PK/Pjk/2023 regarding the Judicial Review of Tax Court Decision Number 00957.16/2022/PP/M.VB in 2022, which denied the Judicial Review request. Although the subject matter of the disputes was the same, specifically the determination of Value Added Tax (VAT) obligations for the 2016 tax year, the rulings were different. This research adopts a normative approach that examines the applicable legal norms and principles, along with document analysis to evaluate the Supreme Court decisions. The study identifies the factors influencing judicial interpretation and the complexity of achieving legal consistency within the judicial system through an in-depth analysis of the decision texts and legal considerations. The research aims to provide insight into legal consistency, the factors causing differences in rulings, and the decision-making process within the Supreme Court. Additionally, the study highlights the implications for legal stability and public trust while offering critiques and recommendations for improving legal policy and practice in the future. Overall, this research serves to deepen the understanding of the dynamics of court decisions at the highest level and contributes to enhancing the legal system to be more consistent and just.

Keywords: Judicial Review, Supreme Court, Court Rulings, Comparative Decisions, Tax Law

INTRODUCTION

From a legal perspective, tax is understood as an obligation arising from legislation, which compels citizens to remit a portion of their income to the state (Sugiarto, 2014; Sutedi, 2022). The state has the authority to enforce the fulfillment of this obligation, and the collected tax funds must be allocated for the administration of government functions (Adiyanta, 2020; Sudaryo et al., 2021). This legal approach emphasizes that any tax levied must be based on statutory provisions (Rahma, 2023). This principle is enshrined in Article 23A of the Constitution of the Republic of Indonesia, which states, "Taxes and other levies of a compulsory nature for state purposes shall be regulated by law." (Ditisrama et al., 2022; Pracasya, 2021) This provision guarantees legal certainty for both the tax authorities (fiscus) as tax collectors and the taxpayers as the obligated parties (Jan, 2022; Sinaga, 2018).

In an era where law serves as the fundamental basis for maintaining social order and justice, consistency in the application of law is critically important (Hasan et al., 2024). However, in practice, variations in court rulings, especially in the Supreme Court, often spark debates about the stability and certainty of the legal system (Waluyo, 2022). Cases involving judicial reviews of Tax Court decisions provide a tangible example of how discrepancies in rulings can raise concerns about consistency in the application of law in Indonesia. These inconsistencies may undermine public trust in the judiciary and highlight the complexities in achieving uniformity in legal interpretations. (Yunus, 2021).

A study on the differences in Supreme Court rulings, as observed in Supreme Court Decision No. 4421/B/PK/Pjk/2023 and Supreme Court Decision No. 4696/B/PK/Pjk/2023, provides insight into the complexities of the judiciary at the highest level. Both rulings involve a dispute between PT Panca Struktur Piramida and the Director General of Taxes, concerning the assessment of Value-Added Tax (VAT) prior to the company's designation as a Taxable Entrepreneur. This case highlights how differing interpretations of legal principles can lead to varying outcomes, reflecting the challenges in maintaining consistency in judicial decisions within the Supreme Court.

In Supreme Court Decision No. 4421/B/PK/Pjk/2023, the court rejected the judicial review request filed by PT Panca Struktur Piramida, thereby upholding the Tax Court's decision. Meanwhile, in Supreme Court Decision No. 4696/B/PK/Pjk/2023, the court granted the same company's judicial review request, overturned the Tax Court's ruling, and accepted the appeal.

This contrast in rulings on similar matters illustrates the variability in judicial interpretations and decision-making, raising concerns about legal consistency, particularly in cases involving tax disputes.

The differing rulings of the Supreme Court in two judicial review cases of Tax Court decisions—Decision No. 4421/B/PK/Pjk/2023 and Decision No. 4696/B/PK/Pjk/2023 raise several important legal issues worth discussing. Both decisions, despite involving the same party and similar tax disputes, resulted in contrasting outcomes.

Judge Dr. H. Yulius, S.H., M.H., in the decision No. 4421/B/PK/Pjk/2023, argued that the Supreme Court upheld the Tax Court's decision by emphasizing the evidentiary value that prioritizes substance over administrative form. Although the Petitioner claimed that the designation as a Taxable Entrepreneur was voluntary, this did not invalidate prior tax obligations, as the Petitioner met the criteria for Taxable Entrepreneur status since July 2016. Therefore, Judge Yulius deemed the grounds for the Judicial Review petition unacceptable, as they were merely opinions without binding effect, and there was no Tax Court decision contradicting the applicable regulations.

Meanwhile, Judge Dr. Irfan Fachrudin, S.H., C.N., in the decision No. 4696/B/PK/Pjk/2023 highlighted the correction of the Tax Base (DPP) for Value Added Tax (VAT) concerning PT Panca Struktur Piramida. The Petitioner was found to have exceeded the turnover threshold, which should have required registration as a Taxable Entrepreneur at the beginning of 2016. However, according to Article 2(4a) of the General Provisions and Tax Procedures Law, VAT collection retrospectively can only be enforced if the taxpayer is designated as a Taxable Entrepreneur by the Directorate General of Taxes, not by self-assessment. Since the designation was made by the Petitioner independently, the legal basis for retroactive tax collection did not apply. Based on this and the presence of significant new evidence, the Supreme Court annulled the previous Tax Court decision and granted the Petitioner's Judicial Review request.

The first ruling rejected the judicial review, while the second granted it. This raises questions about legal consistency, especially regarding the application of Supreme Court rulings in similar cases. The divergence in these rulings can be attributed to different legal reasons. In the first decision, the Supreme Court found no violation in the Tax Court's ruling.

However, in the second case, the presence of significant new evidence (*novum*) was deemed sufficient to overturn the Tax Court's decision. This difference highlights the role of new evidence in shaping legal outcomes and the complexities involved in achieving consistency within the judiciary, particularly at the highest court level.

This inconsistency highlights a divergence in legal interpretation by different panels of judges, which can have significant implications for legal stability and certainty. Additionally, questions arise regarding the validity and evaluation of *novum* (new evidence), particularly since evidence accepted in one decision was not presented or considered in a similar case. Such variations in rulings impact public trust in the judiciary, as differing decisions on similar cases can create uncertainty for involved parties, especially in the context of tax dispute resolution. (Marzuki, 2013) Moreover, this situation underscores the challenge the Supreme Court faces in maintaining consistency in legal interpretation and ensuring equitable justice for all parties. A lack of uniformity in judicial decisions, especially in complex tax disputes, can undermine the credibility of the legal system and raise concerns about the fairness and predictability of legal outcomes. (Evri et al., 2024)

The differing outcomes between these two rulings call for a deeper analysis of the factors influencing the decision-making process within the Supreme Court. Additionally, it raises critical questions about the diversity of legal interpretations among the panels of judges and how this variation impacts legal stability and certainty. This research aims to explore the underlying reasons behind these discrepancies in rulings and examine their implications for public trust in the judiciary system in Indonesia. By investigating the nuances of legal reasoning, judicial discretion, and the role of new evidence (*novum*) in these cases, the study seeks to shed light on the broader challenges faced by the Supreme Court in maintaining consistency in its decisions. The findings are expected to contribute to a better understanding of how legal interpretation varies within Indonesia's highest court and its potential consequences for the integrity and predictability of the legal system

RESEARCH METHOD

The research methodology employed in the analysis of the differing Supreme Court rulings regarding judicial reviews of Tax Court decisions is qualitative, utilizing a normative juridical approach. This study examines two Supreme Court decisions, namely, Case Number 4421/B/PK/Pjk/2023 and Case Number 4696/B/PK/Pjk/2023, through a detailed analysis of

legal documents and relevant tax legislation. Secondary data will be gathered from court rulings, applicable tax laws, and supporting legal literature, including academic journals and books related to the principles of judicial review and Indonesia's tax system (Efendi & Ibrahim, 2018). A case study approach will be used to identify differences in legal reasoning, the use of new evidence (*novum*), and the principles upheld by the panels of judges in their decision-making processes. To complement this analysis, a comparative method will be employed to juxtapose the two rulings from a legal standpoint, focusing on the application of tax law. This comparison aims to reveal the factors that led to differing outcomes, despite the similarity in the nature of the tax dispute. (Ardiansyah, 2020). The findings from this study are expected to provide a clearer understanding of the dynamics in the Supreme Court's decision-making process and to highlight the implications of these differences in rulings on legal consistency and certainty in the resolution of tax disputes in Indonesia

RESULTS & DISCUSSION

1. Ratio Decidendi of the Court in Decision No. 4421/B/PK/Pjk/2023 and No. 4696/B/PK/Pjk/2023

Petitions for Judicial Review to the Supreme Court are often considered the final legal recourse within the judicial system, including in tax adjudication in Indonesia. The Supreme Court's status as the highest court in the country renders its decisions final and binding. Once the Supreme Court has rendered a decision, there is no higher judicial authority that can review the case. Taxpayers, as parties involved in tax disputes, have the right to file a Judicial Review if they believe that the prior Tax Court decision was unjust or contained errors. In such cases, the Supreme Court is authorized to review the decision based on substantial grounds, such as the presence of new evidence (*novum*) or a clear mistake in the application of the law.

The Supreme Court's authority to examine Judicial Review petitions is regulated under Law No. 14 of 1985 concerning the Supreme Court, specifically in Articles 28 and 34. In Decision No. 4421/B/PK/Pjk/2023 and Decision No. 4696/B/PK/Pjk/2023, there are differences in the legal considerations made by the judges.

Judge Yulius, in his considerations, stated that the Supreme Court upheld the Tax Court's decision by focusing on the evidentiary value that emphasizes the principle of *substance over form*. This principle assesses the substance of the legal issue rather than its administrative form. Judge Yulius argued that although the Petitioner's designation as

a Taxable Entrepreneur was done voluntarily and not by official appointment, this does not nullify past tax obligations if it is found that the Petitioner met the criteria for Taxable Entrepreneur status since July 2016. Consequently, Judge Yulius deemed the grounds for the Judicial Review petition to be unjustifiable, as they were merely opinions without a binding impact and there was no Tax Court decision contradicting the applicable regulations, as per Article 91(e) of Law No. 14 of 2002 concerning the Tax Court. The judge also opined that the new evidence presented was not decisive and could not invalidate the legal considerations of the Tax Court's decision.

Critiquing Judge Dr. H. Yulius's opinion, several key points arise. First, the application of the substance over form principle might be selectively applied, and its consistency with the context of the tax case discussed warrants examination. Second, the application of the *Ne Bis in Idem* principle in the context of taxation also faces criticism due to the unclear understanding of how this principle is implemented. Third, the assessment of the new evidence (*novum*), which was considered non-decisive, requires scrutiny, especially if there is inadequate explanation as to why this evidence was deemed insignificant. Criticism of this opinion highlights the need for clearer legal reasoning and argumentation, as well as consistency in the application of legal principles to ensure legal certainty.

Judge Irfan Fachrudin, in his decision, highlighted the correction of the Basis for Tax Assessment for Value Added Tax (VAT) concerning the Petitioner, PT Panca Struktur Piramida. The Petitioner was found to have exceeded the turnover limit that should have required them to register as a Taxable Entrepreneur at the beginning of 2016. However, according to Article 2(4a) of the General Provisions and Tax Procedures Law, VAT collection retrospectively can only be conducted if the taxpayer is designated as a Taxable Entrepreneur by the Directorate General of Taxes, not by their own initiative. In this case, since the designation was carried out through self-assessment, this provision could not be used as a basis for retroactive taxation. Based on this and the presence of significant new evidence, the Supreme Court annulled the previous Tax Court decision and granted the petition for Judicial Review from the Petitioner.

On the other hand, Judge Dr. Irfan Fachrudin, S.H., C.N., argues that because the petitioner was designated as a Taxable Entrepreneur through self-assessment rather than official appointment, the tax obligations prior to this designation cannot be enforced.

Criticism of this opinion might arise from an interpretation that could be too rigid regarding the Taxable Entrepreneur designation process. Furthermore, although there are similar decisions from the Supreme Court granting review petitions from the same party, this raises questions about the consistency and legal certainty of Supreme Court rulings, which are expected to be binding. Lastly, while the judge asserts that the novum presented was decisive, the lack of detailed explanation regarding the relevance and adequacy of this novum could prompt criticism about how it was used to invalidate the legal considerations. These critiques emphasize the necessity for clarity, consistency, and solid argumentation in every decision to maintain fairness and legal certainty in tax law enforcement.

2. Things Judges Must Do When Providing Legal Considerations in a Ruling

In providing legal reasoning in a decision, particularly in the context of taxation, a judge must undertake several crucial steps to ensure justice and legal certainty (Ismail, 2010). Firstly, the judge must conduct a thorough analysis of the facts and evidence presented in the case. This involves reviewing all evidence submitted by both the petitioner and the respondent to ensure that all relevant information has been considered (Emma Aulia, 2019). Secondly, the judge must correctly apply the applicable laws and regulations. This includes identifying and applying provisions from the Taxation General Provisions and Procedures Law, Ministerial Regulations, and other relevant tax regulations pertinent to the case (Pardede, 2020). The judge must also interpret the law to clarify the meaning and application of these regulations to the facts of the case, ensuring that the interpretation aligns with legal principles and considerations of justice (Widarto, 2016).

Furthermore, the judge should consider relevant legal principles, such as the principle of substance over form, legal certainty, and *Ne Bis in Idem* (the prohibition of being punished twice for the same offense) (Wicaksana, 2017). The decision should also be aligned with previous relevant rulings from the Supreme Court to ensure consistency and legal certainty (Wahyudi et al., 2018). If new arguments or novum (new evidence) are presented, the judge must perform a detailed analysis to determine whether the novum significantly impacts the decision (Manaqib, 2019).

Justice must also be a primary consideration, including evaluating the impact of the decision on all parties involved. Finally, the judge must ensure that the judgment is written

clearly and accurately, detailing the legal reasons and facts underpinning the decision (Lubis et al., 2023). This clarity is important for providing transparency to the parties involved and for reference in similar cases in the future. By addressing all these aspects, judges are expected to deliver decisions that are fair, consistent, and provide legal certainty for all parties involved in the case (Firdaus et al., 2020).

3. Factors Influencing a Judge's Legal Interpretation

In the judicial process, several factors influence a judge's decision, which can be classified into several important categories. These factors include raw input, instrumental input, and environmental input. Raw input factors involve the personal background of legal actors, such as ethnicity, religion, and education (Prabowo, 2007). Instrumental input factors are related to the judge's professional experience and formal education, which affect their competence and legal knowledge. Meanwhile, environmental input factors encompass social and cultural environments, such as family background and social organizations, which can influence the judge's views and behavior (Wardiono, 2020).

Additionally, these factors can be categorized as subjective and objective. Subjective factors include: (i) *apriori* behavioral attitudes, such as prejudices or initial beliefs that the judge may have about the defendant's guilt; (ii) emotional behavioral attitudes, where personal traits of the judge, such as impulsiveness or patience, might affect the decision; (iii) arrogance of power, which refers to the judge's conceit or sense of superiority that might impact the objectivity of the ruling; and (iv) morality, which includes the judge's personal moral values affecting how they examine and decide the case. (Wibawa, 2024)

Objective factors include: (i) cultural background, which encompasses the judge's culture, religion, and education that might influence their decisions, although not deterministically; and (ii) professionalism, which involves the judge's level of intelligence and professional expertise, playing a crucial role in the quality of the decision. Differences in court decisions are often influenced by how well judges integrate these factors with their professional expertise in handling cases (Mukhtar, 2008).

In the judicial process, various factors affect a judge's decision, involving the parties involved in the case. These factors include: (i) judge-related factors, such as gender, race, authoritarian personality, and marital status; (ii) defendant-related factors, including gender, race, and attractiveness; (iii) witness-related factors, such as attractiveness,

gender, and race; (iv) prosecutor-related factors, including authoritarian personality and attractiveness; (v) attorney-related factors, such as attractiveness and race; and (vi) societal factors, like public opinion and culture. All these factors can influence a judge's decision both directly and indirectly (Hutabarat, 2023).

This study successfully identifies and analyzes various factors involved in the judicial process handled by judges in the Supreme Court. The classification of these factors includes: (1) Interpretation of Laws and Related Regulations, where judges interpret laws and regulations specifically for the case, reviewing the text of laws, regulations, and previous rulings to support their argumentation. (2) Principles of justice, both substantive and procedural, are important considerations in the judge's interpretation to ensure a fair decision for all parties. (3) Judges conduct a thorough analysis of the facts and evidence presented, which can influence the application of the law in the context of the case. (4) Judges handling tax cases must have a deep understanding of tax law principles, including rules regarding Taxable Entrepreneur registration, VAT collection, and tax enforcement. (5) The judge's experience and professional background, including practical or academic knowledge in tax law, can enhance their understanding of relevant issues. (6) Personal values and professional ethics of the judge, such as justice, truth, and integrity, also influence the interpretation and legal decisions made (Avicenna, 2023).

4. Implications of Differences in Verdicts Among the Supreme Court Chambers on Legal Consistency

The role of judges in achieving justice remains a significant challenge, not only in ensuring legal certainty but also in delivering justice that balances the interests of the state and the people. A judge's decision, often regarded as the "crown" of the judicial system, reflects the values of truth, justice, and moral ethics from the judge's perspective. As the decision-makers, judges must adhere to applicable regulations and procedural laws to achieve legal certainty (Waluyo, 2022).

Differences of opinion among judges in a case can have a significant impact on legal consistency, particularly in the enforcement of tax laws. The potential impacts of such differences include (Syaidi Tarigan, 2024):

- a. **Legal Uncertainty:** When judges have differing opinions in deciding a case, this can create legal uncertainty for parties involved in similar cases in the future. Both

taxpayers and the Directorate General of Taxes may face difficulties in determining appropriate actions if similar cases arise again.

- b. **Consistency of Legal Interpretation:** Differences in legal interpretation among judges can raise questions about the alignment of decisions with existing laws and regulations. This has the potential to affect public confidence in the fairness of the tax judicial system.
- c. **Consistent Tax Governance:** Consistency in tax law enforcement is crucial for ensuring efficient and fair tax governance. Significant differences in opinions among judges can disrupt this consistency and, in some cases, create loopholes that could be exploited for abuse or injustice in the tax system.
- d. **Precedent Development:** Supreme Court decisions serve as important precedents in law. If there are differing opinions at the Supreme Court level, this can influence the development of future precedents. Discrepancies between decisions in similar cases can obscure a consistent legal viewpoint and disrupt legal certainty.

Consistency in Supreme Court rulings is vital for ensuring a shared understanding among judges regarding legal issues, including tax law. This consistency not only provides legal certainty but also enhances public trust, particularly among taxpayers, in the judicial system. Inconsistency in Supreme Court rulings can undermine the enforcement of law in Indonesia (Amrullah, 2022).

Therefore, it is crucial for the judicial system in the Supreme Court, as the highest court in Indonesia, to strive for optimal legal consistency. This can be achieved through in-depth and comprehensive discussions by the panel of judges in their decision-making processes to produce clear and consistent rulings (Ahmad Ziruddin et al., 2023).

CONCLUSION

Based on the discussion outlined, several key points can be concluded. First, the Supreme Court of Indonesia, as the highest court, has the authority to review tax cases if there are sufficient grounds, with decisions being final and binding. The review process at the Supreme Court represents the last legal recourse after a tax court decision has become legally binding. In the highlighted cases, there are differing opinions between Judge Dr. Irfan Fachrudin, S.H., C.N., and Judge Dr. H. Yulius, S.H., M.H., regarding the correction of the Tax Base for VAT on deliveries, indicating variations in legal interpretation that can affect the final decision. Criticisms of the judges' opinions include differences in interpreting legal principles such as

"substance over form" and the application of the Ne Bis in Idem principle, as well as the importance of consistency in applying the law and explaining the submitted novum. The primary goal of the review is to ensure justice and legal certainty in the enforcement of tax law, considering the facts, evidence, and relevant legal principles. Additionally, judges must consider various factors in legal interpretation, including the interpretation of laws, principles of justice, fact analysis, professional experience, and personal values and ethics. Consistency in legal interpretation is crucial for creating legal certainty for stakeholders, such as taxpayers and the Directorate General of Taxes, and for maintaining the integrity and effectiveness of the tax system as a whole. Differences in judicial opinions highlight the complexity in law enforcement and underscore the importance of addressing these challenges to achieve optimal justice and legal certainty. The review process at the Supreme Court, in the context of taxation, requires in-depth analysis of various legal and factual aspects, as well as consistency in applying legal principles to uphold justice and legal certainty.

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