

Legal Analysis of Directorate General Customs Decisions at East Java Regional Office I

By Siti Ngaisah



Legal Analysis of Directorate General Customs Decisions at East Java Regional Office I

The Objection of Customs Rate Assessment and Value of PT. Sinar Harapan
Berkarya

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ABSTRACT

The procedure for submitting an objection to the SPTNP (Letter Determination of Tariffs and/Customs Value) is regulated in the Regulation of Director General Customs Per-15/BC/2017 concerning on Procedures for Filing and Settlement of Objections in the Customs and Excise Sector. The submission of objection to SPTNP PT. Sinar Harapan Berkarya, often get rejection from Director General of Customs. This study implements 2 problems of study, 1. How to grant the objection to tariffs and/or customs value (notul) at PT. Sinar Harapan Berkarya? 2. What is the reason on the objection of tariffs and/customs value (notul) of PT. Sinar Harapan Berkarya being rejected? This study aims to determine the obstacles of rejecting SPTNP objection and find out the conditions for SPTNP objection to be granted by Director General of Customs. This method uses empirical juridical research. This research examines legal provisions and what happens in field or in reality. The discussion includes the requirements for the fulfillment of SPTNP objection, the issuance of SPTNP, the calculation of Customs Tariffs and Values, the method of filing SPTNP objection, the factors that causes the rejection to the Tax Court and Analysis regarding the Decision of Customs General Director. Based on the analysis of objection, there is an inconsistency on the submitting method the Decree of the Director General of Customs.

Keywords: *SPTNP Objection, The decision of directorate general, The Decision of Director General of Customs*

INTRODUCTION

Import is the activity of entering objects into the customs area, it includes entering the objects through delivery mechanism. The process of reporting the PIB (Notification of Import) through the website or application from Customs and Quarantine, the website or application is SSM (Single Submission) through the portal of INSW (Indonesia National Single Window), it can be found that the goods are included in SPPB (Letter of Approval for Goods of Release), or SPJM (Letter of Notification of Red Line) or SPJK (Letter of Notification of Yellow Line), request for shortage of Document note or request for INP (Customs Value Information):

1. SPJH (Green Track Notification Letter) this category, the goods can be released first without document and physical inspection, however after the issuance of SPPB (Letter of Approval for the Release of Goods), document research should be carried out.
2. SPJK (Yellow Track Notification Letter): for this inspection, there is no physical inspection, only document inspection is needed before the issuance of SPPB (Letter of Approval for the Release of Goods).
3. SPJM (Red Line Notification Letter): For this inspection, both physical and document inspections are carried out before the issuance of SPPB (Goods Release Approval Letter).

There are three categories of distribution above regulated in Customs Director General Number Regulation Per-14/BC/2016 concerning the Procedures for Release of Imported Goods, according to the results of analysis from January 2020 to July 2021, PT. Sinar Harapan Berkarya regarding the import of a big number of goods into the red line category, which has potential to obtain an SPTNP (Letter Determination of Tariffs and/or Customs Value) in form of administrative sanctions from customs.

Table 1. The Form of Administrative Sanctions in Customs

Years	SPTNP Publication	Submit an Objection	The Decision of Objection	
			Accepted	Rejected
2020	38	36	15	21
2021	30	30	21	9

Based on the description above, this research tried to analyze "Legal Analysis of Directorate General Customs Decisions At East Java Regional Office I on The Objection of Customs Rate Assessment And Value Of PT. Sinar Harapan Berkarya" which will discuss legal basis for the decision of Directorate General of Customs and how to accept the objections of tariffs determination and customs values and what factors that makes the objections will be rejected.

RESEARCH METHODS

This research used empirical juridical research. According to Kathryn Zeiler, empirical juridical research is the method that used to increase the credibility of their findings. These methods include making data, analysis codes, and other materials publicly available, and pre-registration studies.¹ This empirical juridical research examines legal provisions and what happen in field. In the other words, it came from the actual situation and reality in society. Because this research is an empirical juridical research, the problem approach used is the statute approach. This research uses an approach that identifies and conceptualizes law as a real and functional institution in real life system or according to the real time event.²

DISCUSSION

Terms of Customs Tariff Acceptance and Objection Of Value Determination

The Letter of Tariff Determination and Customs Value

Tariff and/or Customs Value Determination Letter (SPTNP) or known as Correction Note can be interpreted as a letter that has been set by the Customs and Excise Office on imports that have been notified in the Import Customs Notification. The appearance of the Tariff and Customs Value Determination Letter (SPTNP) make the importer understand the lack of payment on import duties, import taxes, or administrative sanctions. Thus, the importer should pay for the settlement. The payment period for Tariff Determination Letter and Customs Value (SPTNP) is 60 (sixty) days from the issuance of determination letter.

SPTNP Objection Submission Procedure

The submission of document can be done within the time that has been determined in determination letter, it is 60 (sixty) days from the date of determination letter. If within 60 (sixty) days the importer does not file an objection on the Tariff Determination Letter and/or Customs Value (SPTNP), then it is considered as invalid and the importer does not object or accept the stipulations that have been set by Customs officer. The submission of objection was done to show that the value that has been notified to Customs is true and can be used as responsibility for the purchases and sales that have been made by importer.

¹ Kathryn Zeiler, "The Future of Empirical Legal Scholarship: Where Might We Go From Here?," *Journal of Legal Education* 66, no. 1 (2016): 78–99.

² Prasetijo Rijadi dan Sri Priyati, *Memahami Metode Penelitian Hukum Dalam Konteks Penulisan Skripsi / Tesis* (Sidoarjo: Al-muktabah, 2017).

Table 2. List of Document

No	Supporting data and/or evidence attached to filing an objection to determinate the customs value	Description
1	Customs Notice	
2	Evidence of Correspondence via:	
	a. Letter	
	b. Facsimile	
	c. Email	
	d. Payment Order	
	e. supplier Confirmation	
3	Proof of Contract	
	a. purchase Order	
	b. proforma Invoice	
	c. quotations	
	d. sales Contract	
	e. Contract Agreement	
	f. Invoice	
	g. Packing List	
4	Bill of Lading/ Airway Bill or Sea Bill	
5	Insurance policy	
6	Proof of Payment that has been ATTENTIONED by competent authority:	
	a. Letter of Credit	
	b. Debit Note	
	c. Telegraphic Transfer	
	d. Transfer/Voucher Payment	
	e. Application Transfer	
	f. Proof of Domestic Insurance Payment	
	g. Proof of Payment for Carriage of Goods (Freight)	
	h. Checking account	
	i. Bank Confirmation	
7	Import Period SPT, Standard Tax Invoice	
8	Brochure/Catalog/Technical Data/Specification of Goods	
9	Certificate of Origin/Certificate of Analysis	
10	Sales Invoice/Price List	
11	Import Data of Same/Identical Goods with received Customs Value	
12	Company recording/bookkeeping of related transactions in one period	
	a. General journal	
	b. General Ledger	
	c. Debt Book	
	d. Cash book	
	e. Bank account book	
	f. Purchase and/or Sales Book	
	g. Stock Book	

The table above is the list of documents requested by customs, the list above should be fulfilled, must be consistent and mutually continuous. during the

submission of objection, the documents must be complete and must be checked first, whether the documents are appropriate and mutually continuous or not. The incomplete and inconsistencies documents are likely to be rejected. The list of required documents required above are the documents that will be submitted to Customs. During the interview with Mr. Robbi Iskandar, regarding what should be submitted to make an official objection, Mr. Robbi Iskandar stated that it is several are required for the submission of contributions as in the figure above. Here is the list of what should be attached for the submission of objection, as following below:

1. A photocopy of the National Receipt Certificate (BPN) as a guarantee to Customs for the amount of the bill that needs to be paid;
2. The photocopy of SPTNP (Determination Letter of Tariff and/or Customs Value);
3. Write power of attorney letter when the objection submission cannot be done by the owner of a company. Power of Attorney can be authorized to the employees of a company or to Customs Service Management Enterprises who have cooperated with the importing company;
4. Photocopy of Director and Management Identity;
5. Photocopy of Goods Release Approval Letter;
6. Photocopy of Import Notification of Goods (PIB) along with several requirements such as:

a) BL (Bill Of Lading)

BL or *Bill of Lading* is one of the official documents published by shipping companies as evidence for the transportation of goods by sea from the original country to the destination country.³ as a receipt for the goods that have been loaded to the ship, it is made based on the agreement between exporter and the airlines or cruise, moreover, it is a guarantee or security of the goods.⁴

b) COO (Certificate of origin)

COO (Certificate of Origin) it is a letter issued by country where the country has made a bilateral or multilateral agreement or cooperation for the purpose of exporting and importing the country's goods.⁵ Certificate of Origin able to provide import duty tariff facilities up to 0% to the destination country depends on the country of import, in each country the name of the letter is different for example; *Form D* for Thailand, *Form E* for China, *Form A* for India and others, and there are several countries that

³ Fevilia et.al Dea Ayu, "Prosedur Penerapan Dokumen Bill Of Lading Dalam Aktivitas Ekspor-Import," *Jurnal Analogi Hukum* 2, no. 1 (2020): 22–26, <https://www.ejournal.warmadewa.ac.id/index.php/analogihukum/article/view/1612/1162>.

⁴ Adrian Sutedi, *Hukum Ekspor Impor* (Jakarta: Penebar Swadaya Grup, 2014).

⁵ Esty Hayu Dewanty, "Rules of Origin Sebagai Instrumen Penanganan Praktis Illegal Transshipment," *Yuridika* 27, no. 2 (2012): 157–171, <https://ejournal.unair.ac.id/YDK/article/download/294/159>.

smuggled their products to Indonesia and do not have a COO (Certificate Of Origin) such as European countries and Egypt.

c) Invoice or Bill

An invoice is a purchase transaction document made by two parties, which contains the name of item, the total amount, the value of item, the total price, the name of the seller and buyer include the seller's and buyer's address.

d) Packing List

Packing List is a document that contains detailed information of goods, start from the size, the name, the gross weight, the net weight, and the total of item, the name of the seller and the buyer include the address.

e) Surveyor Report

Surveyor Report is a complementary document that is required in the delivery of import export to the customs office (Customs). Surveyor Report made for the fruit items that is easy to bend and does not last long.

f) KT9 (Plant Quarantine release certificate) / KH-14 (Fauna Quarantine release certificate).

A document issued by quarantine authority as supporting document for the release of an item.⁶

g) Insurance

Insurance of the transportation of items from the original country of origin to the destination country.

h) Purchase Order Photocopy

PO is a document required to order a product before the product is shipped

i) Sales Contract Photocopy

Sales Contract is an agreement between two parties for a purchase agreement on the items to be purchased.

7. Correspondence (Email, Quotation, Supplier Confirmation, and others)

8. Proof of Payment Transfer;

9. Checking Account;

10. Proof of Domestic Insurance Payment;

11. Product Catalogue;

12. Photocopy of Company Legality;

11

⁶ Arifin et.al Tasrif, "New Paradigm on Plant Quarantine System for Protection of Biological Diversity in Indonesia," *Jurnal Perlindungan Tanaman Indonesia* 25, no. 1 (2021): 1-9, <https://jurnal.ugm.ac.id/jpti/article/download/62605/31775>.

13. Photocopy of Company Act;
14. Bank Book, GL (General Of Ledger), Book of Debt, Accounts Receivable Book, Customer Sales Book, Purchase Book, And Inventory Book;
15. other supporting documents;

The order of submitting objections in East Java region will be done through 2 (two) processes, after being submitted to Perak Customs and Excise Office, it will be forwarded to the Regional Office of General Directorate of Customs and Excise East Java I.

The conditions for the objection to be granted

On processing an agreement to purchase items, buyer and seller should agree on the order of how to make an agreement regarding the price and which items to be purchased. The correct sequence of transactions, in order to make objection documents can be accepted, is written as following below:

1. The Complete required documents;
2. The SPTNP objection document or Notul (Correction Note) should be the same as the submitted document;
3. The name goods, the amount, the price, the total weight, the name of buyer and seller, the name of sender, buyer's and seller's address, sender's address should be the same as the documents that have been notified at the time of PIB making.
4. giving Report Survey if there is an item that has bad quality;
5. Credit Note Amount
6. Insurance date should not exceed the Bill Of Lading;
7. Sales Contract date should not exceed the Purchase Order date;
8. The date of Correspondence proof does not exceed the date of Purchase Order;
9. Statement Letter is needed if the payment exceeds the deadline;
10. The provided accounting is complete and can be trusted.

The Factors for Rejected Tariff Determination and Customs Value

Beside the requirements, it is also several factors which can make the objection to be rejected. It is explained as following below ⁷:

- a) Inconsistency Document;
- b) There are documents that have not fulfilled the request of the Customs;
- c) The provided Documents are incomplete;

⁷ Christine Nugrahaeni, Rizka & Tjen, "Perception Analysis of The Harmonized System: A Case Study of Tariff Disputes in Indonesia," *Jurnal Perspektif Bea dan Cukai* 5, no. 2 (2021): 144–164, <https://jurnal.pknstan.ac.id/index.php/PBC/article/download/1249/719/6033>.

- d) SPTNP objection document or Corrective Note is different from the document submitted at Customs Value Declaration;
- e) There are differences of goods, the number, the price and the total weight of the goods;
- f) Did not provide survey report; If there are the that not good in quality. Survey Report will help to provide stronger evidence, to strengthen Credit Note Claims or price discounts
- g) The amount of *Credit Note* or unreasonable price discounts;
- h) The date of insurance exceeds the Bill of Lading; insurance issuance should not exceed the date on Bill of Lading. After the Bill of Lading has been issued, insurance must be made at that time for the purpose of submitting documents.
- i) *Sales Contract* date should not exceed the date on *Purchase Order*;
- j) Date of correspondence proof or Quotation exceeds the date of PO Purchase Order; The order in making goods purchase agreement should be detailed and systematic, in order to make the inspection of documents can be trusted by Customs or PFPD (Document Inspection Functional Officer)
- k) The destination of Purchase Order, Proof of Correspondence and SC (Sales Contract) are different from Invoice;
- l) Did not provide an accounting details for the sale and purchase transaction
- m) The amount of sale and purchase is not balanced.

The Decision of Directorate General of Customs

Submitting an appeal is the right of the importer, this last effort should be done by importer who does not agree with the decision of General Director. They can submit an appeal to the tax court. Counterpart is an objection decision letter, or final effort to prove that the notified transaction is true.

Counterpart can be submitted after the Decision of Director General of Customs has appeared; it has to be submitted to the Tax Court within 60 (sixty) days from the date of determination. The payment of SPTNP (Determination Letter of Tariffs and/or Customs Value) should be paid first. The provisions are regulated in Article 95 of Republic Indonesia Law Number 17/2006 concerning on Amendments to Law Number 10/1995 concerning on Customs, this provision is also written in the decision of Directorate General of Customs.

The Decision Analysis

Position Case

The Decree of Director General of Customs No : KEP-2302/WBC.11/2020 regarding the Objection Decision of PT. Sinar Harapan Berkarya regarding the Determinations Made by Customs Officials in SPTNP Number: SPTNP-006422/NTL/WBC.11/KPPMP01/2020, 01 September 2020.

Reason of Filing Objection

Whereas the Petitioner filed an objection based on the Petitioner objected to the determination of payment shortage or administrative sanctions in form of a fine because the import value in PIB document was related to the purchase value of overseas supplier for commodity.

Consideration

Based on the letter from the head of KPPBC Tipe Madya Pabean Tanjung Perak Number S-6689/wbc.11/kpp.mp.01/2020 on November 3, 2020, The letter of objection is received related to the Article 4/90 in conjunction with Article 13 of Minister of Finance Regulation Number 51/PMK.04/2017 concerning on Objections, 02 November 2020 and forwarded to General Director of Customs Head of Office Regional Directorate General of Customs and Excise, East Java I.

Based on the analysis of sales contract, it is known that terms of payment that has been agreed by the Seller and Buyer which include inside the sales contract is a term of payment: by T/T 50% of contract value upon receipt of faxed shipping document and the balance by T/T days after arrival; based on the results of consistency data testing and timeliness series, the attached supporting documents cannot provide sufficient information to prove the truth of the notified customs value;

Based on the referred considerations in the context of the needs to stipulate Director General's Decision on the Determination of Objections by PT. Sinar Harapan Berkarya on the determination made by Customs in SPTNP Number: SPTNP-006422/NTL/WBC11/KPPMP01/2020, 01 September 2020;

Rejection of Objection Application

The Decision of Director General of Customs Regarding the Determination of PT. Sinar Harapan Berkarya Objection. Completely reject the objection filed by PT. Sinar Harapan Berkarya on the determination made by Customs in SPTNP Number: SPTNP-006422/NTL/WBC11/KPPMP01/2020 On September 1, 2020 which caused a short payment of IDR 5,000,000 (five million rupiah).

In DNP (Customs Value Declaration) research, it is known that the submission of documents given by PT. Sinar Harapan Berkarya to Customs cannot be trusted, Therefore, it needs fallback method to be carried out as written in Article 28 paragraph (2) regarding the Regulation of Minister of Finance Number: 62/PMK.04/2018 as Second Amendment to Regulation of Minister of Finance Number: 160/PMK.04/2010 concerning on Customs Value for Calculation of Import Duties.

A fallback has been implemented on transaction value of goods, and the receipt of objection documents that have been submitted by PT. Sinar Harapan Berkarya, the provided evidence cannot be considered as true. Based on the research of correspondence, purchase orders, sales contracts for the submitted transactions, it is known that the date of sales contract precedes the date of purchase order,

therefore the notified price cannot be considered as the value of transaction. Based on the foregoing, the objections that have been submitted by PT. Sinar Harapan Berkarya cannot be trusted as the actual transaction value.

CONCLUSION

The Letter of ⁷ Tariffs Determination of Tariffs and Customs Value (SPTNP), a letter issued by Customs and Excise Officials due to the underpayment of imported goods. The ¹⁶ submission of objections to the determination is regulated inside the Regulation of Director General of Customs Per-15/BC/2017 concerning on the Procedures for Filing and Settlement of Objections. In submitting an objection, the submitted or to be submitted documents must be complete and consistent or interrelated with each other, therefore the submission can be granted.

The reason for the refusal Decision of Director General of Customs is correct, because the submitted documents of PT. Sinar Harapan Berkarya is not sequential, it means ⁵ that, the document cannot be trusted. The last effort on the decision can be appealed within 60 days from the date of determination or the date of the ⁵ decision and after the levy owed is paid off, the provisions are regulated in Article 95 of Law of the Republic of Indonesia Number 17 of 2006 concerning on the Amendments to Law Number ⁶ 16/1995 concerning on Customs, this provision is also written in the decision of the Directorate General of Customs. The decision of Directorate General and Customs which was rejected can be used as a lesson and measurement of the extent to which PT. Sinar Harapan Berkarya provides the document to the Customs. Whether it is correct or not. Therefore, every decision should be studied where the mistakes that have been made can be taken as a lesson for further submission.

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