

## **Juridical Analysis of Dispute Settlement Efforts Billing for Bankrupt Company through the Renvoi Procedure**

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**Abstract:** This study aims to examine bankruptcy in which a debtor who has financial difficulties has to pay his debts to two debtors who are due and declared bankrupt by a court decision that has permanent legal force. In the process of matching receivables between bankrupt creditors and debtors. In debt/receivable matching meetings attended by curators, creditors, bankrupt debtors and supervisory judges, there are often disputes over the amount owed/receivable from bankrupt debtors/creditors which raises legal issues up to filing lawsuits to determine the amount owed/receivables of bankrupt debtors/creditors to the commercial court. In this study, the authors used a type of library research (Library research).

The results of the research Internal audit which has recalculated all of PT Pertamina EP's receivables to PT Geo Cepu Indonesia as a bankrupt debtor found a difference in the amount owed/accounted by the debtor from the amount of debt that had been recognized previously and submitted a procedure renvoi based on recalculations carried out by the internal audit company PT Pertamina EP to PT Geo Cepu Indonesia as the bankrupt debtor. The implementation of the procedure review, the internal audit did not confirm or verify with the internal audit of the bankrupt debtor company, namely PT Geo Cepu Indonesia, so that it was impressed that the procedure proposed by PT Pertamina EP was a unilateral determination of the amount owed/receivable by the bankrupt debtor/creditor. Based on Articles 115-118 of Law no. 37 of 2004 concerning Bankruptcy and PKPU where any change in the amount owed/receivable from a bankrupt debtor or creditor must obtain prior approval from the bankrupt debtor and by the curator by verifying the renvoi procedure and must also be properly recorded by the curator. The legal considerations of the Supreme Court panel of judges who rejected the cassation of the procedural renvoi submitted by PT Pertamina EP are appropriate because the procedural renvoi submission must first be based on verification between the creditor submitting the procedural renvoi and the bankrupt debtor and supported by authentic evidence.

**Keywords:** attempt, settlement, dispute, bankruptcy, renvoi

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### **Introduction**

Renvoi procedure is a creditor's objection to a list of creditors' (temporary) bills that the curator acknowledges/denies. Renvoi procedures are submitted at the meeting of accounts receivable matching by creditors who do not receive receivables acknowledged by the curator. Technically, the curator reads out the list of invoices (in front of the supervisory and observer judges (PP), other creditors, debtors) along with notes (in the form of legal basis and facts from billing documents and company/individual documents given by creditors in the form of reasons for accepting/rejecting the curator's the bill) after that each creditor, debtor signed an agreement on the bill which was acknowledged by the curator who objected to the list of bills giving a letter of rebuttal to the supervisory judge (Kuswardaniet all :2014)

The supervisory judge makes the minutes which are then included in the supervisory judge's report to the panel judge (the judge is the same as the judge who decided on bankruptcy), then the panel judge determines the date of the renvoi trial. The renvoi decision must be terminated seven days after the first hearing. There are no replicas and duplications in the renvoi trial, it is enough to attach evidence and legal grounds why you dispute the list compiled by the curator, so it is enough for the curator to make answers to creditors' rebuttals accompanied by evidence. Usually in practice 3 sessions (opening, evidence, decision) (Leonarduset all: 2020)

In the implementation of bankruptcy law, especially regarding matching debts/receivables that experience differences or differences in amounts between creditors, debtors and curators, this is a problem that often occurs. Disputes or cases like this are usually resolved directly by the Court Judge, but in this bankruptcy case before the matter is brought to Court it will first be resolved by the Supervisory Judge. If the Supervisory Judge cannot resolve the case between the parties, the Supervisory Judge will conduct a "Reappointment". In International Private Law (HPI), this reappointment is called "Renvoi". Renvoi occurs in this HPI if there are differences in the legal system between the parties. However, in bankruptcy law issues, renvoi is applied if the Supervisory Judge cannot resolve the problem between the parties, then the Supervisory Judge appoints a Court Judge to resolve the problem. This is what is meant by Renvoi bankruptcy (Anzward : 2019)

The factors that led to the occurrence of procedure *renvoi* were differences in the amount of debts/receivables in the creditors' records with the number of accounts payable/receivables in the records of the debtor and the curator, where each party saw that the records of debts/receivables in the hands of each debtor, creditors and curators are records of the correct amount of debts/receivables. This resulted in disputes between creditors, debtors and curators over differences in the amount owed/receivable in the records of each party, and even though there was a matching of payables/receivables on each party, there was no agreement to accept one amount owed/receivable. agreed. (Budiono, Doni: 2019). This resulted in the party objecting to the difference in the amount owed/receivable filed a lawsuit to the Commercial Court to determine the amount owed/receivable on the records of the objecting party (Firmansyah, Arif: 2012)

### **Research Method**

In this study the authors used a normative legal research approach as a supporting material in the study. The research method using a normative legal approach is a research method by studying and researching primary legal materials and finding the truth using inductive thinking methods and facts used to carry out the induction process and test the strong truth of the sources. In terms of normative legal research, research was carried out on laws and regulations and various literature related to the problems in this research, including Law no. 37 of 2004 concerning Bankruptcy and PKPU and also the Supreme Court decision no. 617.K/Pdt.Sus.Bankrupt/2018. The procedures and procedures for bankruptcy and *renvoi* procedures in implementation must be in accordance with applicable laws and regulations, so that the implementation of bankruptcy and *renvoi* procedures has legality, legal force and legal certainty in carrying out the prosecution of their rights both for creditors and for bankrupt debtors. The applicable positive law provisions as contained in the bankruptcy law regulations must be applied in the implementation of the *renvoi* procedure so that has the power and legal certainty in the implementation of the rights and obligations that must be accepted by the bankrupt creditors and debtors.

In the *renvoi* case, the procedure for matching the amount of debt/receivable between the debtor of PT Geo Cebu Indonesia (In Bankrupt), and the creditor, namely PT. Pertamina EP, a joint acknowledgment/agreement was not reached regarding the amount of debt/receivables that should have been owned by each party, both the bankrupt debtor and the creditor. This resulted in a dispute between PT. Pertamina EP as a creditor with PT Geo Cebu Indonesia (In Bankrupt) as the debtor which resulted in the curator and supervisory judge and ended with litigation at the Supreme Court's cassation level, where PT. Pertamina EP filed a lawsuit against the non-acceptance of the procedural *renvoi* submitted to the curator, debtor or supervisory judge.

### **Results and Discussion**

#### **1. Renvoy Procedure by Creditors for the amount of debt recognized by the curator based on internal audit verification from creditors.**

##### **A. Recording of Debts of Bankrupt Debtors by the Curator**

Procedures and procedures for recording debts of bankrupt debtors by the curator as an authorized official in carrying out the management and settlement of bankrupt assets begins with an inventory of all assets of the bankrupt debtor, both movable and immovable, documents and securities as well as mandatory cash recorded in full by the curator with supervision carried out by the supervisory judge after the debtor is declared bankrupt by a court decision that has permanent legal force. In principle, the curator must protect the existence of the bankrupt debtor's assets and try to maintain the value of these assets. Any action taken outside of his authority must obtain prior approval from the supervisory judge (Napitupulu, Herbert : 2020)

Law No. 37 of 2004 concerning Bankruptcy and Suspension of Obligations for Payment of Debt determines the duties and powers of the curator in the management and settlement of the bankrupt debtor's assets as follows:

- a. The curator appointed for special assignments based on a bankruptcy declaration decision has the authority to act independently to the extent of his duties.
- b. Within five days from the date the bankruptcy declaration decision was pronounced, the curator shall announce it in the State Gazette of the Republic of Indonesia as well as at least two daily newspapers stipulated by the supervisory judge.

In carrying out the recording/inventorying of the bankrupt debtor's assets, the curator must carry out procedures and procedures in the case of recording the bankrupt debtor's assets in accordance with the provisions of the applicable bankruptcy law as contained in Law No. 37 of 2004 concerning Bankruptcy and PKPU which basically states several procedures that must be followed by the curator in carrying out the recording / inventory of bankrupt assets.

**B. The curator is tasked with securing the assets of the bankrupt debtor, by doing the following:**

- 1) The curator suspends the execution rights of creditors and third parties to claim their assets which are in the possession of the bankrupt debtor or curator, for ninety days after the bankruptcy declaration;
- 2) The curator releases the collateral by paying the creditor;
- 3) Immediately from the start of his appointment, the curator must make every necessary and proper effort to ensure the safety of the bankrupt assets. Immediately he must take for safekeeping all letters, money, jewelry items, securities and securities values by giving a receipt;
- 4) The curator, in order to secure the bankrupt assets, requests the supervisory judge to seal the bankrupt assets. The sealing was carried out by the bailiff where the property was located in the presence of two witnesses, one of whom was a representative of the local regional government;
- 5) The curator must keep all money, jewelry items, securities and other securities. The supervisory judge also has the authority to determine how the assets will be stored. Specifically for cash, if it is not required for curator management, it is obligatory to store it in a bank for the benefit of bankrupt assets; 6) The curator returns to the bankrupt estate the goods held by the creditor (Putri, Wilda Prima : 2019)

**C. Basics of Acknowledgment and Announcement of Debt Amount by the Curator**

Curator is a position that has the authority to carry out collection, inventory, recording and safeguarding the assets of bankrupt debtors under the supervision of a supervisory judge. All assets of the bankrupt debtor are under the power and authority of the curator. To be issued or sold, there must be permission from the curator and also the approval of the supervisory judge. Curator as a position can be carried out by the inheritance hall or an individual appointed by the court to manage and settle the assets of a bankrupt debtor under the supervision of a supervisory judge in accordance with the provisions of the laws and regulations in force in the field of bankruptcy law as contained in Law No. 37 of 2004 concerning Bankruptcy and PKPU. In a bankruptcy declaration decision, a curator and a supervisory judge must be appointed from among the court judges. The curator who has been appointed must be independent, have no conflict of interest with bankrupt debtors and creditors and not be handling bankruptcy and PKPU cases of more than 3 (three) cases. Within a period of no later than 5 (five) days after the date the curator and the supervisory judge receive the bankruptcy declaration decision, the curator announces it in the state gazette of the Republic of Indonesia and at least in 2 (two) daily newspapers stipulated by the supervisory judge.

In carrying out the management and settlement of the bankrupt debtor's assets, the curator must make a record of the bankrupt assets no later than 2 (two) days after receiving a letter of appointment as curator. Before making a record of all the bankrupt debtor's assets, the curator may invite members of the creditor committee to attend the process of recording the bankrupt debtor's assets carried out by the curator. The note made by the curator must be in such a form as to contain in detail all the bankrupt debtor's assets, both movable and immovable assets, as well as documents/securities related to the bankrupt debtor's valuables. In the process of recording the bankrupt debtor's assets, the curator is also required to keep all letters, documents, money, jewelry, securities and other securities by providing proof of receipt to the bankrupt debtor. The record made by the curator consists of columns and divides items of bankrupt assets into groups of movable assets and immovable assets, which have clear and detailed specifications along with their respective amounts. Specifically for objects in the form of animals that are really needed by the bankrupt debtor in connection with his work/equipment, medical devices used for health, beds and equipment used by the debtor and his family and food for 30 (thirty) days for the debtor and his family who were there were also recorded by the curator, but they were not kept by the curator but handed over to be used by the bankrupt debtor and his family.

The recording of the bankrupt debtor's assets is carried out by the curator under the hand with the approval of the supervisory judge. The approval of the supervisory judge is given in the form of signing a list of assets of the bankrupt debtor contained in the curator's records. Prior to signing the bankrupt debtor's debt note by the curator, the curator is required to re-check all the bankrupt debtor's debts recorded in the debt note made by the curator, whether they are in accordance with the actual amount owed by the bankrupt debtor to his creditors. If the debt record does not match, changes (*renvoi*) can be made to the debt record that has been made by the curator so that it matches the actual debt amount of the bankrupt debtor. Changes in the amount of debt notes made by the curator must request the signature of the re-approval from the supervisory judge and members of the creditor committee who were present and witnessed first hand the curator's creation of the bankrupt debtor's debt records. If the re-examination of the bankrupt debtor's debt records made by the curator is in accordance with the actual debt amount that has been acknowledged by the bankrupt debtor and creditors, then the bankrupt debtor's debt record made by the curator meets the requirements to be announced at the district court clerk's office where where the bankruptcy case is decided. After the bankrupt debtor's debt records made by the curator are correct and in accordance with the actual debt amount that has been acknowledged by the bankrupt debtor and also the creditors, the curator takes the debt note to the District Court where the bankruptcy

case was decided, and then carries out Administrative registration at the Registrar's Office of the District Court and pays the registration fee at the Registrar's Office of the District Court. After obtaining proof of payment of the registration administration fee, the Registrar's Office of the District Court issues a permit for the announcement and a permit for the place to affix the announcement.

#### **D. The role of the creditor's internal audit in recording and acknowledging the amount owed by the curator**

Assets are a very important component in the company. Because with assets the company can develop its business. Payables of companies/other parties to companies are receivables or company assets that must be recorded and maintained properly, so they are not lost. The debt of the company/other entity is a company asset that is still abstract, because it has not been returned to the company. In accounting, the notion of an asset is a resource or wealth owned by an entity that is used in operational activities and not as merchandise inventory or sold. Assets have a very large nominal value in the company's statement of financial position, therefore efforts are needed so that the assets owned by the company can be properly maintained and reported as they are. One of the efforts to record and maintain the company's assets is through the company's internal audit. Basically the main function of the Internal Audit Unit is to provide support to the Board of Directors in terms of supervising the implementation of governance, the effectiveness of the risk management process and internal control to ensure that the implementation of governance practices is running optimally. This function is designed to carry out the audit function and provide consultation through the submission of independent, professional and objective suggestions and recommendations aimed at increasing value and improving the operations of the Company and its subsidiaries. In carrying out its activities, the Internal Audit Unit is guided by the Internal Audit Charter which has been approved by the Board of Commissioners, and coordinates with the Audit Committee in carrying out its work. The Company's Internal Audit Charter is prepared in accordance with applicable laws and regulations and professional standards issued by the Internal Audit Association (Internal Standards for the Professional Practice of Internal Auditing). The Internal Audit Division has full access to all functions, records, physical assets and employees of the Company and its subsidiaries.

Based on the Financial Services Authority (OJK) Regulation No. 56/POJK.04/2015 dated 23 December 2015, all forms of action, whether in the form of appointment, replacement or dismissal of the Internal Audit Unit must be immediately reported to OJK. The Internal Audit Unit is an independent work unit led by a Head of Internal Audit. The Head of Internal Audit is appointed and dismissed by the President Director with the approval of the Board of Commissioners. The Head of Internal Audit is responsible to the Main Director. Based on the description above, it can be said that internal audit has a significant role in maintaining company assets, including recording all company receivables that become debts to companies/other parties which are abstract assets that must be attempted to be returned to the company. The authority of internal audit in protecting and maintaining the company's assets gives the right to internal audit to recalculate the amount of the company's debts/receivables that are still in other parties, so that it can be returned in the correct amount so as not to harm the company's assets. The submission of a *renvoi* for the debtor's debt amount made by PT Pertamina based on the results of the company's (creditor's) internal audit record is valid because it has a legal basis according to the authority possessed by the internal audit of the creditor company. Internal audit is different from external audit although there are similarities, namely that both are professions that have an important role in the governance of an organization or company / institution and have a common interest in the effectiveness of internal control over financial reports.

The relationship between external auditors and internal auditors regulates certain requirements in which areas and to what extent, external auditors can use the work of internal auditors in achieving their assignment objectives. The external auditor must determine whether the work of the internal auditors can be used, by evaluating the extent to which the organizational status, policies and procedures are sufficient to support the internal auditors' objectives, the level of competence of the internal auditors, whether the internal audit function applies a systematic and orderly approach, including implementing quality control. If these three things are not met, the external auditor is not allowed to use the results of the internal audit work. While several things that can create cooperation between the two types of auditors are the level of understanding of each internal auditor and the external auditor himself. The competence of the two types of auditors, the provision of audit objectives from the external auditors to the internal auditors, as well as direct reporting to the internal auditors and the objectivity of the internal auditors.

In the provisions of Article 1 paragraph 1 of the Financial Services Authority (OJK) Regulation Number 56 / POJK.04 / 2015 concerning the Establishment and Guidelines for the Preparation of the Internal Audit Unit Charter it is stated that, "Internal audit is an activity of providing assurance and consultation that is independent and objective, with the aim of increasing value and improving company operations, through a systematic approach, by evaluating and improving the effectiveness of risk management, control, and corporate governance

processes. Based on the provisions above, internal audit has the authority to carry out the task of guarding and maintaining company assets including the management of company receivables that are still in the hands of other parties whose returns must be sought to maintain the financial health of the company in carrying out its operational activities.

#### **E. Renvoi procedures by creditors for the amount of debt that has been acknowledged by the curator based on the verification of the curator's internal audit**

When the debtor is declared bankrupt based on a court decision, from the date the bankruptcy declaration decision is pronounced, the debtor by law loses his right to control and manage his assets including in bankruptcy assets, as determined in Article 24 paragraph 1 of the Bankruptcy Law and PKPU since that time the debtor's assets included in bankruptcy assets, because the concurrency does not have the right to collect payment in advance. To administer the bankruptcy estate, according to Article 15 of the Bankruptcy and Suspension of Obligations for Payment of Debt Law, the Commercial Court appoints a Curator as well as a Supervisory Judge. In accordance with the provisions of Article 100 of the Bankruptcy and Suspension of Obligations for Payment of Debt Law, the curator's duties include immediately making a list of the amount owed by debtors and receivables of creditors after making a bankruptcy description. This task is carried out by the curator prior to his duty to pay the receivables or bills of each creditor.

Regarding the matching of accounts receivable through directors' meetings. Receivables matching or verification meeting is one of the important activities carried out in the first stage of bankruptcy. Receivables verification or matching meeting is held on the appointed day chaired by the Supervisory Judge. The meeting is intended to make comparisons regarding debtors' debts or creditors' receivables. Matching is meant both regarding the creditor's position, recognition as a creditor, as well as regarding the amount of receivables. A debt verification meeting is a meeting to match the bankrupt's debts as a determination of the classification of incoming invoices for bankruptcy assets, in order to detail the amount of receivables that can be paid to each creditor, which is classified into a list of recognized receivables, accounts receivable doubted (while acknowledged), as well as disputed receivables, which will determine the balance and sequence of rights of each creditor.

The process of matching receivables in essence is to match the calculation of receivables based on the evidence submitted by the creditor with the debtor's evidence or records (debtor's bookkeeping records). Renvoi procedure is a creditor's rebuttal against a creditor's list of temporary bills that the curator acknowledges or denies. Renvoi procedures are submitted at the meeting of accounts receivable matching by creditors who do not receive receivables acknowledged by the curator. The curator reads out the list of invoices (in front of the Supervisory Judge, debtors, other creditors) along with notes in the form of legal basis and facts from evidence of billing documents and company/individual documents provided by creditors in the form of reasons for accepting or rejecting existing debt records and have been acknowledged by the curator and the debtor is bankrupt against the bill.

#### **F. Legal Certainty Regarding the Amount of Debt Acknowledged by the Curator**

Law No. 37 of 2004 concerning Bankruptcy and PKPU does not explicitly state the limits or conditions for a creditor or debtor to submit a procedural revoi on the amount owed by a bankrupt debtor that is already in the curator's records. Even though the curator has recorded all the amounts owed by the bankrupt debtor to his creditors and has been acknowledged by the bankrupt debtor, the curator and also the creditors based on the data submitted by each party, the amount of the debt/receivable can still be objected to by both the debtor and the creditor. through a revoi procedure mechanism. If the procedure revoi proposed by the bankrupt debtor or creditor is not recognized in a meeting to verify the amount of debt attended by the curator, supervisory judge, bankrupt debtor or creditors, then the party submitting a revoi procedure/disclaimer against the amount of debt that has been acknowledged by the curator, can still maintain their objection by filing a lawsuit to the commercial court, so that the commercial court legally legalizes the procedure.

If the Commercial Court rejects the claim for revoi procedure filed by the bankrupt debtor or creditor, then cassation proceedings can still be made to the Supreme Court. The reason is that there is no legal certainty in determining the amount of debt that is shared by all parties, namely the curator, the bankrupt debtor and the creditors. Although the amount of debts/receivables from bankrupt debtors and creditors has been acknowledged by the curator, bankrupt debtor and creditors, the implementation of the settlement of bankruptcy assets by paying the entire number of bankrupt debtors using bankrupt assets cannot be carried out by the curator, because there is no legal certainty regarding the amount owed by the bankrupt debtor. Law No. 37 of 2004 concerning bankruptcy and PKPU in Article 127 paragraph (1), still provide an opportunity for bankrupt debtors and creditors to dispute the amount of debt that has been acknowledged by the curator. Thus it can be said that the amount of debts/receivables that have been acknowledged by curators, bankrupt debtors and creditors have not

given rise to legal certainty until a procedural renvoi is filed, a procedural renvoi lawsuit either to the Commercial Court or to the Supreme Court until a decision is issued in court that has legal force. fixed to the amount of debt/receivables of the bankrupt debtor/creditor.

## **2. Analysis of legal considerations of the supreme court of the Republic of Indonesia in decision no. 617.K/Pdt.Sus,Bankrupt/2018 Related to Submission of Renvoi procedure by creditors based on creditor company internal audit results.**

### **A. The legal considerations of the panel of judges of the Supreme Court**

The legal considerations of the panel of judges of the Supreme Court which stated that the basis for filing a claim for a renvoi procedure from creditors of PT Pertamina EP was not based on applicable legal provisions because it was only based on a unilateral determination of the results of internal audit calculations for the creditor company PT Pertamina EP so that legally the lawsuit for renvoi procedure weak is appropriate and in accordance with applicable law. This is because in bankruptcy law, every determination of the amount of a bankrupt debtor's debt must go through a debt matching meeting and must be approved by the curator of the bankrupt debtor and the creditor. If the renvoi procedure does not obtain approval from the curator or the bankrupt debtor at the meeting of matching receivables/debt, then the determination of the amount of the debt is invalid and is deemed non-existent because the curator has no authority in dealing with bankruptcy assets or by the bankrupt debtor. The addition of the amount of debt submitted by PT Pertamina EP in a procedure review for three items of debt, namely:

1. Receivables for Post-Operation Handling Costs and Environmental Recovery Activities (Abandonment & Site Restoration Costs) of US\$1,662,879.01 (one million six hundred sixty-two thousand eight hundred seventy-nine point zero one United States dollars) or approximately Rp. 19,954,548,120 (nineteen billion nine hundred fifty four million five hundred forty eight thousand point one hundred twenty rupiah);
2. Bank Guarantee Receivables for a Fixed Commitment Guarantee of US\$1,500,000.00 (one million five hundred thousand United States dollars) Rp. 18,000,000,000 (eighteen billion rupiahs);
3. Receivables for recording and reporting activities of oil flows amounting to IDR 1,065,631,310.14 (one billion sixty five million six hundred thirty one thousand three hundred ten point fourteen rupiah); so that the additional forest of the bankrupt debtor in the renvoi court procedure proposed by PT Pertamina EP becomes IDR 39,020,179,430.14 (thirty nine billion twenty million one hundred seventy nine thousand four hundred thirty point fourteen rupiah), which is based on the proceeds Internal audit calculations never gave notification or confirmation and verification to the internal audit of the bankrupt debtor or PT Geo Cepu Indonesia, so that PT Geo Cepu Indonesia does not feel that it owes any of the three items of debt submitted by PT Pertamina EP in the revoi procedure. Thus the determination of the addition of debt made by PT Pertamina EP based on the results of the internal audit was stated as a unilateral determination whose veracity should be doubted so that neither the curator nor the bankrupt debtor recognized it.

### **B. Analysis of Supreme Court Decision No. 617.K/Pdt.Sus.Bankrupt/2018**

The panel of judges of the Supreme Court in their decision No. 617.K/Pdt.Sus.Pailit/2018 issued a decision:

- a. Rejecting the cassation request from the Cassation Petitioner PT Pertamina EP;
- b. Punish the Cassation Petitioner/Petitioner to pay court costs at the cassation level which is set at IDR 5,000,000.00 (five million rupiah)

The Supreme Court's decision above is correct with due regard to the legal considerations presented by the Panel of Judges at the Central Jakarta Commercial Court No. 27/Pdt.Sus-PKPU/2016/PN NiagaJkt. Pst where the Supreme Court concurred with the decision of the Central Jakarta Commercial Court which stated that the revoi procedure proposed by PT Pertamina EP which was only based on a unilateral calculation from the internal audit of the company PT Pertamina EP was invalid and had no legal force. The internal audit that performs the calculation of the company's debts/receivables must first confirm the internal audit of the bankrupt debtor company on the results of the debt calculation that has been determined by the internal audit company of PT Pertamina EP.

An increase in the amount of new debt is deemed valid and has legal force if the internal audit of the creditor company and the internal audit of the bankrupt debtor company have agreed to determine the increase in the amount of debt proposed in the renvoi procedure. However, in reality the procedure for determining the amount of debt carried out by the internal audit of PT Pertamina EP did not confirm or verify with the internal audit of the bankrupt debtor company, namely PT Geo Cepu Indonesia. The unilateral determination of the

increase in the amount of debt made by PT Pertamina EP based on the results of the company's unilateral internal audit calculations is doubtful because it was not carried out based on the applicable legal provisions in the field of bankruptcy. The Supreme Court rejected the procedural *renvoi* from PT Pertamina EP because it was appropriate and in accordance with applicable legal provisions in the field of bankruptcy law, namely the provisions of Articles 115, 116, 117, 118 of Law No. 37 of 2004 concerning Bankruptcy and PKPU where the results of the recalculation of the internal audit must first obtain approval from the bankrupt debtor's internal audit as well as by the bankrupt debtor himself and also by the curator, in order to obtain approval in terms of the *renvoi* procedure. The consideration of the panel of judges of the Supreme Court further stated that the review of procedures carried out by the internal audit of PT. Pertamina EP has violated the procedure for changing the amount of debt/receivables from bankrupt debtors and creditors by not first confirming or verifying the bankrupt debtor through internal audit and with the curator so that the *renvoi* is contrary to the provisions of Article 115-118 of Law No. 37 of 2004 concerning Bankruptcy and PKPU.

### **C. Legal certainty in the provisions of the *Renvoi* procedure in the Supreme Court decision No.617.K/Pdt.Sus.Pailit/2018**

The theory of legal certainty covers two things, namely, legal certainty in the formulation of legal norms and principles that do not conflict with each other, both in terms of the articles of the law as a whole and in relation to other articles that are outside the law. . Second, legal certainty also applies in implementing the legal norms and principles of the law. Legal certainty must cover all fields of law. Legal certainty does not only cover legal certainty in substance but also legal certainty in its application (procedural law) in decisions of judicial bodies. Between the certainty of legal substance and the certainty of law enforcement must be in line, legal certainty should not only depend on the law in the books but real legal certainty is if the certainty in the law in the books can be carried out as it should be in accordance with the principles and legal norms in enforce legal justice

Supreme Court Decision No. 617.K/Pdt.Sus.Pailit/2018 creates a legal certainty regarding the procedure *renvoi* submitted by the creditor company PT Pertamina EP. The legal certainty in question is that an increase in the amount of debt submitted by creditors of PT Pertamina EP based on the results of a unilateral calculation of the company's internal audit cannot be used as a legal basis for filing a procedural *renvoi*. The results of PT Pertamina EP's internal audit calculations only have legal force if the results of PT Pertamina EP's internal audit calculations have been confirmed or verified on the bankrupt debtor company's internal audit as well as on the curator and the bankrupt debtor himself to obtain an acknowledgment and approval in order to give rise to a legal certainty in its implementation. Therefore the Supreme Court's decision gave rise to a legal provision stating that the results of an internal audit of a company that have not been confirmed or have not been verified by the internal audit of the place where the receivables are located or against the bankrupt debtor company or the previous curator cannot be used as a legal basis in filing a lawsuit. review the procedure for disputing the increase in the amount of debt determined by the creditor against the bankrupt debtor.

Based on the provisions of Article 115 Law no. 37 of 2004 concerning Bankruptcy and PKPU that creditors are required to submit all records of their receivables to the curator accompanied by authentic evidence to strengthen the position of creditors' receivables at the meeting of accounts matching. The curator is also required to match the debts/receivables in the creditor's records and those in the debtor's records so that there are similarities in the amount of the debt/receivables in the bankrupt debtor's, creditor's and curator's records. Each submission of a *renvoi* procedure must also first be matched with changes in the amount of the receivables to the bankrupt debtor or to the curator to obtain approval from the bankrupt debtor and from the curator so that the change in the amount of creditors' receivables is accepted or approved in the debt/receivable matching meeting of the bankrupt creditor/debtor together with curator.

Submission of a procedural *renvoi* lawsuit to the Commercial Court in practice, the creditor must collect data / legal facts to corroborate the change in the amount of receivables filed by the creditor in the claim for the procedural *renvoi* determination to the Commercial Court. The decision of the Commercial Court regarding the determination of the *renvoi* procedure can be appealed to the Supreme Court and a review can also be carried out on the decision of the Supreme Court court which has permanent legal force if there is a *novum* or new evidence supporting the claim for the *renvoi* procedure by the creditor. Based on the description above, it can be said that for the implementation of determining the amount of debt/receivables of a bankrupt debtor or creditor if there is a lawsuit against the determination of the *renvoi* procedure by the bankrupt debtor or creditor, the curator must wait for a court decision that has permanent legal force against the amount of debt/receivables of the bankrupt debtor as well as creditors that contain elements of legal certainty, so that based on a court decision that has legal force, the curator can carry out settlement of bankrupt assets in an effort to carry out payment of the bankrupt debtor's debts to his creditors. Unilateral determination by the internal audit of the creditors of PT. Pertamina EP has basically violated the provisions of Articles 115, 116, 117 and 118 whereby the internal audit

company Pertamina EP did not confirm the change in the amount of PT. Pertamina EP to the bankrupt debtor and curator so that it is not recognized by the bankrupt debtor or curator.

### **Conclusion**

- A. The factors that cause differences in the amount of receivables between the records held by debtors, creditors and curators giving rise to bankruptcy procedures and disputes in general are that there is a difference in the amount of debt recognized by the bankrupt debtor which has been recorded by the curator with the amount owed which is recorded by the creditor after a temporary acknowledgment between the creditor, curator and debtor is bankrupt. Creditors recalculate after a meeting between creditors, curators and bankrupt debtors where the amount of debt recognized by both the curator and the bankrupt debtor has changed after the recalculation by creditors based on the results of calculations carried out by the company's internal audit of PT Pertamina EP as creditor, which is not confirmed or previously verified at a meeting to match debts/receivables to curators and bankrupt debtors
- B. Analysis of the legal considerations of the panel of judges of the Supreme Court of the Republic of Indonesia in decision no. 617.K/Pdt.Sus.Pailit/2018 related to the submission of a *renvoi* procedure by creditors based on the results of an internal audit of the creditor company is that the legal considerations of the Supreme Court panel of judges who rejected the cassation of the *renvoi* procedure submitted by PT Pertamina EP were appropriate and in accordance with legal provisions applicable laws and regulations because the submission of the *renvoi* procedure must first be based on verification between the creditor submitting the *renvoi* procedure and the bankrupt debtor and supported by authentic evidence, but in reality the procedural *renvoi* submission by PT Pertamina EP tends to be carried out unilaterally without committing confirmation or verification in advance with the internal audit of the bankrupt debtor's company as well as the curator and bankrupt debtor. So that the *renvoi* procedure is weak both in terms of evidence and in terms of procedures and procedures for submitting procedures that violate legal provisions as contained in Law No. 37 of 2004 concerning Bankruptcy and PKPU.

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