RELEVANCE OF THE IMPLEMENTATION OF LAW NO. 37 OF 2004: CONCERNING BANKRUPTCY AND POSTPONEMENT OF DEBT PAYMENT OBLIGATIONS IN ACCOUNTING PERSPECTIVE

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ABSTRACT

The purpose of this study is to provide a scientific description of the implementation of bankruptcy law in companies in the perspective of accounting practices. The research method uses a qualitative method with an approach of reviewing scientific articles, laws, and Financial Accounting Standards (SAK). The results of the study indicate that there is relevance between laws and financial accounting standards and standards that is conservatism principle. One of the articles in the bankruptcy law is when the company is in bankruptcy process and after the appointment of a curator begins, the curator must carry out efforts to secure bankruptcy assets (Article 98, Law No. 37 of 2004). A further impact of the implementation of the article is that management must make a business assessment of the entity's ability to maintain business continuity (PSAK 1, paragraph 25). There is uncertainty whether the company can still run its business or not according to Article 104 (2) Law No. 37 of 2004 became one of the reasons the company must disclose the going concern condition in the financial statements. The Snowball effect will have an indirect impact, especially when the company is listed on the Indonesia Stock Exchange.

Keywords*:* Bankruptcy, Going Concern, Accounting Standard

INTRODUCTION

One of the company's main goals is to be able to generate profits that provide sustainable benefits for the company's shareholders and stakeholders, long-term goals are the perspective of the chief executive officer (CEO) or what is called the company going concern (Untari et al, 2018). This ideal condition is a challenge for companies, especially in dealing with various external and internal factors, including the flow of technology and information, global economic conditions that have an impact on purchasing power, cultural companies that are not in accordance with business development and various other factors that will have an impact on the company's inability to survive and end in bankruptcy. One stage before bankruptcy, the company will experience a condition of financial distress that allows a creditor to be able to force the debtor to sell assets in order to fulfill his obligations (Petterson & Sarah, 2016). A difficult choice for CEOs to continue to generate maximum profits while still prioritizing caution in every company's strategic decision making. One of the last steps and certainly not wanted by the company is the creditor filing for bankruptcy which is regulated in the Law of the Republic of Indonesia Number 37 of 2004 concerning Bankruptcy and Suspension of Obligations for Payment of Debt (hereinafter referred to as Law No. 37 of 2004). The purpose of this study is to see the impact on the company when the creditors of the company decide to apply for a postponement of debt payment obligations from a financial reporting perspective. Financial reports are one of the most common sources of information and are often used for decision making and with a company in a financial distress process, the process of auditing financial statements and accounting reporting must be able to reflect this condition.

LAW IN INDONESIA

Some definitions of law according to experts are as follows, Immanuel Kant in Daliyo (2014) law is all the conditions under which the free will of one person can adapt to the free will of another according to the principle of independence. Daliyo (2014) concludes that the legal elements include the following:

a. Regulations of human behavior
b. The regulations are made by the official bodies that have the authority

c. The rules are coercive
d. Sanctions for violations of these rules are firm (certain and can be felt for those concerned)

It was also conveyed that the characteristics of the law, as follows:

a. There are orders and or prohibitions
b. Prohibitions and orders that must be obeyed / obeyed by people
c. There are strict legal sanctions

The law is divided into two (Daliyo, 2014):

a. Objective law is the rules governing the relationship between fellow members of society. The relationship between members of society that is governed by law is called a legal relationship, while each member of society who enters into legal relations with each other is called a legal subject.
b. Subjective law is the authority or right that a person obtains based on objective law. A person who enters into a legal relationship with another person will acquire rights or obligations, so the rights or obligations of a person obtained because of mutually holding legal relations are called subjective law.

In order to ensure that these legal regulations continue and are accepted by all members of society, existing legal regulations must be appropriate and must not conflict with the principles of justice in that society. Thus, the law aims to guarantee legal certainty in society and the law must be based on justice, namely the principles of community justice (Kansil and Kansil, 2011).

AUDITS

Auditing is defined as a systematic process to objectively obtain and evaluate evidence regarding assertions about economic activities and events to ensure the degree of linkage between these assertions and established criteria and communicate the results to interested parties (Rustam et al, 2018). The definition of auditing according to Sukrisni Agoes in (Rustam et al, 2018) defines auditing as an examination that is carried out critically and systematically by an independent party, on financial reports that have been prepared by management along

with bookkeeping records and supporting evidence, with the aim of can provide an opinion on the fairness of the financial statements.

From the above understanding, it can be concluded that auditing is an examination and evaluation carried out to obtain evidence on information to be able to provide a fairness opinion on financial statements.

AUDIT BENEFITS

The benefits of an audit are divided into three basic parts that enjoy the benefits of an audit, namely:

1. For the audited party

a) Adding to the integrity of its financial reports so that these reports can be trusted for the benefit of outside parties such as shareholders, creditors, the government, and others.
b) Prevent and find fraud that has been committed by the management of the company being audited.
c) Provide a more credible basis for the preparation of Tax Returns submitted to the Government.
d) Opening the door for the entry of funding sources from outside.
e) Disclose monetary errors and irregularities in financial records.

2. For other members in the business world

a) Provide a more convincing basis for creditors or partners to make credit granting decisions.
b) Provides a more convincing basis for insurance companies to settle claims for insured losses.
c) Providing a reliable basis for investors and potential investors to assess investment performance and management.
d) Provide an independent basis for trade unions and audited parties to resolve disputes regarding wages and benefits.

e) Provide an independent basis for buyers and sellers to determine the terms of sale, purchase or merger of companies.
f) Provide a better basis, convincing customers or clients to assess the profitability or profitability of the company, its operational efficiency, and its financial condition.

3. For government agencies and people engaged in law

a) Provide additional independent clarity regarding the accuracy and assurance of financial statements.
b) Providing an independent basis for those working in the field of law to administer inherited and deposited assets, resolve problems in bankruptcy and insolvency, and determine the proper course of action.
c) Play a decisive role in achieving the objectives of the Social Security Act.

In ensuring the independence of management's assessment of business continuity, the external accountant will carry out its functions in accordance with the objectives of the external auditor, namely: (a) To obtain sufficient and appropriate audit evidence regarding the appropriate use of the going concern assumption by management in preparing financial reports and (b) to conclude based on the audit evidence obtained, whether there is a material uncertainty related to events or conditions that may cast significant doubt on the entity's ability to continue as a going concern (Auditing Standards, 2013)

RESEARCH METHODS

This study uses a qualitative approach that aims to gain understanding, with data on document data collection methods, namely a large number of facts and data in materials in the form of documentation (Rahmat et al, 2009). Furthermore, some characteristics in qualitative research are as follows (Purhantara, 2010): (a). The instrument is the researcher himself, so that researchers are required to be able to adapt to the research environment, so that researchers are able to capture phenomena and the accuracy of information. (b). Conclusions are made based on the interpretation of the data by the researcher. One method of collecting data in qualitative research is collecting data with documents (Sugiyono, 2011). Documents are records of past events. Documents can be in the form of writing, pictures, or monumental works of a person.

Furthermore, the documents in this study refer to regulations and standards, the standards used are auditing standards, namely how accountants technically carry out audits and financial accounting standards, which are further referred to as SAK. The next document is regulation and what is used is Law no. 37 of 2004. Concerning Bankruptcy and Suspension of Obligations for Payment of Debt.

RESULTS AND DISCUSSION

1. The Principle of Going Concern in Accounting

The going concern principle, which will be further referred to as business continuity, is the principle that the reporting entity is able to carry out the company's operational activities and can realize all assets and the ability to pay off the company's operational obligations (Kuruppu, 2003). One reason why companies are not confident enough in ensuring the continuity of their business is that there is an obligation to recognize PSAK 57 which regulates provisions, liabilities and contingent assets, in paragraph 10 (b) and (c) it regulates legal obligations, namely obligations arising from laws and regulations. or implementation of other legal products. Furthermore, in paragraph 14, a provision is recognized if: (a) the entity has a present obligation (both legal and constructive).

According to PSAK 1 of 2017 paragraph 25, in preparing financial reports, management makes an assessment of the entity's ability to maintain business continuity. The entity prepares financial statements based on the going concern assumption, unless management has an intention to liquidate the entity or discontinue trading, or has no other realistic alternative but to do so. If management becomes aware in making its judgment about the existence of a material uncertainty relating to events or conditions that may cast significant doubt about the entity's ability to continue as a going concern, the entity shall disclose the uncertainty. If an entity prepares financial statements not based on the going concern assumption, the entity shall disclose this fact,

Paragraph 26 states that in assessing whether the basic going concern assumption is appropriate, management takes into account all available information regarding the future, for at least twelve months from the end of the reporting period. The level of consideration depends on the facts of each case. When during this time the entity generates profits and has access to

sources of financing, it can be concluded that the going concern assumption is appropriate without going through a detailed analysis. In other cases, management may need to consider several factors that affect current and expected future profitability, debt repayment schedules and potential sources of alternative financing before concluding that the going concern assumption is appropriate (SAK, 2017).

In an audit perspective according to Auditing Standard 570, the going concern assumption, an entity is seen as surviving in business for a predictable future. General purpose financial statements are prepared on a going concern basis, unless management intends to liquidate the entity or cease operations, or has no realistic alternative but to take the above actions. Special purpose financial statements that may or may not be prepared in accordance with a relevant financial reporting framework on a going concern basis (for example, the going concern basis is not relevant for some financial statements prepared on a tax basis in certain jurisdictions). When the use of the going concern assumption is not fixed.

2. Postponement of Debt Payment Obligations

In particular, this study focuses on the process of deferring debt payment obligations as regulated in Article 222, Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations, hereinafter referred to as PKPU. Law No. 37 of 2004 is one of the manifestations of national legal development while still being based on the 1945 Constitution of the Republic of Indonesia. Article 33 (1) of the 1945 Constitution states that the economy is structured as a joint venture based on the principle of kinship. One form of kinship is the principle of deliberation for consensus. The postponement of debt payment obligations reflects the principle of deliberation for consensus between creditors and debtors to reach a mutual agreement in solving problems. This peace process is in line with the principle of deliberation for consensus as the first step in resolving disputes. Deliberation for consensus is one of the characteristics of democracy in Indonesia which is also contained in the fourth precept of Pancasila, namely Democracy led by Wisdom of Wisdom in Representative Deliberations. So that every problem is expected in the initial steps to be discussed so that a joint decision is reached with a spirit of kinship. This PKPU is a process of deliberation between debtors and creditors to reach an agreement with the outcome of debt restructuring. The initial stage in the bankruptcy process in the perspective of Indonesian law begins with the postponement of debt payment obligations that can be filed by the debtor or creditor. The postponement of payment

of obligations according to Article 222 paragraph (2) and (3) of Law No. 37 of 2004 is aimed at conciliation measures which include offering payment of part or all of the debt to creditors. This reconciliation process can end according to Article 255 paragraph (3) if the debtor neglects to take the actions required of him by the court at the time or after the postponement of debt payment obligations is given or fails to carry out the actions required by the management for the benefit of the debtor's property. Companies that are unable to pay debts to third parties can be declared bankrupt by commercial court creditors, but debtors are given the opportunity to be able to apply for a Suspension of Debt Payment Obligations (PKPU) that is requested by the debtor through his legal advisors to the commercial court in general aiming to submit a peace plan which includes payment of all or part of the debt to concurrent creditors to prevent bankruptcy. (Fitria, 2018). The legal basis governing this process is article 255 paragraph (6) of Law Number 37 of 2004. If the PKPU does not reach an agreement or the debtor does not have good faith in carrying out the amicable agreement, then the administrator must submit a request for termination of the postponement of the debt payment obligation or the debtor must declare bankrupt in the same decision.

Arrangements and implementation of debt restructuring and relations with Law No. 37 of 2004, among others, namely (Hariadi, 2020):

1. Debt restructuring carried out by the debtor will depend on the creditor's approval, where the payment period, cutting or reducing interest arrears, extending the debt repayment period is the approval of the creditor so that the debtor in good faith must still comply with the wishes of the creditor
2. Debt restructuring is not regulated in Law No. 37 of 2004 because it has entered the realm of practice. If debt restructuring is regulated in Law No. 37 of 2004, then this will violate general civil provisions, namely the principle of freedom of contract. Basically restructuring or reconciliation is the right of each party, both from the debtor and from the creditor side, so that if it is specifically determined then this will limit the scope of debt restructuring.
3. Debt restructuring is not regulated in Law No. 37 of 2004 because the financial condition or assets of one debtor company are definitely different from other companies, as well as the character and financial condition of each creditor. So that Law No. 37 of 2004 only regulates the process of submitting a peace plan, the voting process until the ratification of

the peace has binding legal force and does not regulate the content or standard matters that must be included in the peace plan.

4. Debt restructuring does not use a special method. Basically, the curator gives freedom to the debtor to draw up a peace plan that will be offered to creditors and likewise the creditor is also given the freedom to respond to the peace plan proposal that has been offered on the grounds of the principle of freedom of contract.

As for some of the obstacles that are generally faced by curators when carrying out debt restructuring efforts to creditors, they include (Sitorus, 2019 in Hasdi, 2020):

1. The debtor has absolutely no ability to pay off his debts even though the debtor is given time to repay his debts.
2. Debtors are able to pay off their debts within a certain period of time, but creditors are not willing to give debtors the opportunity to delay debt payment obligations. This usually occurs because the debt is the creditor's main capital in continuing its business.
3. One of the creditors did not want his debt to be paid in cash, but asked to be included as a shareholder in the debtor's Limited Liability Company for deferring debt payment obligations with the aim that the debtor's Limited Liability Company for deferring debt payment obligations could become the property of the creditor. Usually this can happen if the debtor Limited Liability Company is a Limited Liability Company that has prospects or the debtor Limited Liability Company is a competitor of the creditor Limited Liability Company so that if the creditor can become the owner of shares in the debtor Limited Liability Company, then the creditor Limited Liability Company has no competition.

3. Relevance of Accounting and Suspension of Obligations for Payment of Debt

The link between Accounting and PKPU is reflected in a causal relationship. The PKPU process that is being faced by the Company with the principle of deliberation to reach a consensus makes it one of the characteristics that the company is experiencing financial difficulties or financial distress. As a result of this process, it moves to the going concern principle in accounting financial reporting, namely the auditor's confidence in the financial statements whether the company has business continuity in the future when it is in the PKPU process.

This PKPU process must be presented in financial reports because good financial reports will reflect the actual condition of a company, reliable information for decision making for investors and stakeholders.

CONCLUSION

Companies that are no longer able to fulfill their obligations to creditors will face a legal process that is considered beneficial and provides certainty, namely an amicable agreement in the form of postponement of debt payment obligations, when the debtor enters this scheme, according to the treatment in accounting, they will see this as an obligation resulting from law product.

The results of this PKPU determination are decisions that are in line with the legal objective, namely to prevent disputes so that chaos does not arise. Another goal to be achieved is to strive for justice and protected interests, in this case there are creditors and debtors who need to be protected.

This obligation based on a court decision encourages management and auditors to conduct an assessment of long-term business continuity, and it is ensured that when a company faces a court decision it will be affected in the form of an additional paragraph in the auditor's opinion that it is possible for the company to be not qualified to be a going concern.

These additional paragraphs will provide a signal for investors in the capital market in communicating the existence of risks within the company, investors and capital markets see incremental information that is useful for them to make decisions (Blay et al, 2011). Decision-making for capital market players depends on the returns on shares of companies that receive business continuity opinions, companies that receive business continuity opinions are likely to receive negative stock returns compared to other companies that can obtain positive corporate returns (Coelho et al, 2012).

This condition becomes a dilemma for the debtor or the company, on the one hand the PKPU decision requires the company to fulfill it immediately but on the other hand the company has received a negative signal in the capital market regarding its financial difficulties or negative sentiment. Companies need a positive response in order to continue to carry out business activities to generate revenue.

From the point of view of legal regulations or standards in accounting practice, a joint consensus is needed to establish a judgment that the PKPU process, which of course has a positive intention of saving the company, will still get the support of the auditor in the process of auditing financial statements.Because financial reports are the main information media to tell the company's financial condition and its ability to operate in the future.

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