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In a lawsuit that we won for justified dismissal, the court sentenced us to pay profit sharing to the company, arguing that we did not file a Corporate Income Tax Return or IR-2 form. But our company did not obtain benefits. We do not understand how a court can condemn to pay profit sharing when the company did not make profits. We did not deposit the IR-2 form in court, even though our lawyer told us that we had to do it, because we understood that it is a private document of our company; with confidential information; and that a labor lawsuit cannot force us to be presenting that information, which is not public. We would like to know your opinion (2 of 2)

From the *Mecasid vs. Luis Benual Pozo* case, 3rd SCJ, May 19, 2004, the Supreme Court reversed things, establishing that it is the company who must demonstrate that it did not make profits; and that, if it does not do so, the court can condemn it to pay a profit-sharing, even if it did not make profits.

For this, the Supreme Court relied on article 16 of the Labor Code, according to which the worker is free to prove the facts established in the documents that the employer is obliged to register, in accordance with the Labor Code and its regulations.

The problem is that: 1) the mentioned article 16 of the Labor Code does not include IR-2 form, which is governed by the Tax Code, not the Labor Code, and it is an old legal principle that legal presumptions are of restrictive interpretation; 2) what then is article 225 of the Labor Code for, which allows the worker to obtain (free of charge) such information in support of his claim, and without disclosing confidential information of a company?

It does not seem to me that the case law shift adopted in 2004 was wise.

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