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WPA 26436 of 2024

M/S Pobi Infrastructure Pvt. Ltd.
-vs-
Employees State Insurance Corporation & ors.

Mr. Sujit Sankar Koley
…for the petitioner

Ms. Sabnam De Bardhan
Mr. Vijay Agarwal
Mr. Subrata Dasgupta
Ms. Dipa Bhattacharya

…for the State

Affidavit of service filed on behalf of the petitioner is taken on record.

The petitioner's grievance is with respect to the determination of the tax to the tune of Rs. 48,36,584/-, as against him, by the respondent authority.

Learned advocate appearing for the petitioner says that the tax liability, if any, of the petitioner, is much less. Also that the impugned order is not in terms with the statutory provision insofar as the petitioner has not been given any opportunity of hearing, before determination of the tax amount as above, which is a mandatory provision of law, to be followed by the respondent authorities.

Ms. Sabnam De Bardhan, who generally appears for the State respondents and is present in the Court, is requested to assist the Court for the respondents.

Let a copy of the writ petition be served upon her.

Let her appointment be regularized in due course of time.

Considering all above and the fact that the mandatory provision under the law for determination of the amount of income tax thereby granting opportunity to the assessee to be present before the Assessing Officer, has not been complied with, by the authorities, before determination of the amount, as above.

Considering the same, the Court is inclined to find that the impugned order dated 13th June, 2024 is not in confirmation with the statutory provision and is thus illegal.

On the ground as above, the said order dated 13th June, 2024 is hereby set aside.

The respondent no.3 is directed to proceed in accordance with law for determination of the tax liability and to determine the tax payable by the petitioner, by granting an opportunity of hearing to the petitioner and considering the records and documents relied upon by him.

The exercise as above shall be done by the authority within a period of 12 weeks from the date of communication of this order.

The writ petition is thus disposed of.

After so determining the tax amount and recovery thereof, the respondent authority shall pass necessary order releasing the bank account of the petitioner which has been freezed during the process.

All parties shall act on a server copy downloaded from the official website of this Court.

(Rai Chattopadhyay, J.)