# SPC Guiding Case No. 254: Property Preservation and Deduction Enforcement Case of Xiamen [X] Health Management Co., Ltd. and Fujian [X] Sports Industry Co., Ltd.

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

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## Keywords

Enforcement / property preservation and deduction implementation / voluntary performance / coordination between adjudication and enforcement

## Holding

After a judgment becomes effective and before enforcement is docketed, the person subject to preservation may apply to the people's court to have the preserved funds deducted for performance of the obligations determined in the effective judgment. Where there are no circumstances that might harm the lawful rights and interests of other creditors, the people's court may make a deduction ruling; where the debt is fully satisfied through the above procedure, the people's court may issue a certificate of voluntary performance to the person subject to preservation.

## Basic Facts

In a lease contract dispute between Xiamen [X] Health Management Co., Ltd. (“Xiamen [X] Health”) and Fujian [X] Sports Industry Co., Ltd. (“Fujian [X] Sports”), the Haicang District People's Court of Xiamen, Fujian Province, upon application by Xiamen [X] Health, ruled on July 24, 2024 to preserve property of Fujian [X] Sports worth more than RMB 270,000 (same currency hereinafter), of which more than RMB 190,000 was bank account funds. On October 24, 2024, under the auspices of the people's court, the parties reached a mediation agreement: Fujian [X] Sports shall pay Xiamen [X] Health RMB 75,000. Subsequently, Fujian [X] Sports submitted a written application, expressing its willingness to voluntarily perform the payment obligation determined in the mediation statement, and, on the grounds that the funds in the preserved account were sufficient to perform the debt and that it had no other working capital, requested the people's court to directly deduct the funds in its preserved account to satisfy the debt involved. Xiamen [X] Health had no objection to this method of performance.

Upon investigation, Fujian [X] Sports had no other cases involving litigation or enforcement, and its preservation-deduction application did not involve circumstances that would harm the lawful rights and interests of other creditors.

The Haicang District People's Court lawfully granted the application of Fujian [X] Sports and made a deduction ruling, which stated the implementation of the property preservation in this case, the content and time limit for performance under the mediation statement, the parties' application and the situation of the funds controlled in the preserved account.

## Judgment

On October 24, 2024, the Haicang District People's Court rendered Civil Ruling (2024) Min 0205 Min Chu No. 4139: RMB 75,000 of bank account funds under the name of Fujian [X] Sports that were subject to preservation shall be transferred and withdrawn. On October 29, 2024, the Haicang District People's Court, through the enforcement-preservation case, implemented the deduction from the preserved account of Fujian [X] Sports, paid all the funds to Xiamen [X] Health, and issued a Certificate of Voluntary Performance to Fujian [X] Sports.



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## Reasoning

With respect to preserved funds, after making an effective judgment and before docketing enforcement, the people's court may make a deduction ruling over such funds in accordance with the law (hereinafter referred to as the pre-enforcement-docketing preservation-deduction measure). This measure enables the creditor to realize its claim as soon as possible without lifting the preservation measure, and enables the debtor to perform its debt without incurring enforcement costs and without affecting its creditworthiness, which conforms to the interests and needs of both parties and is also conducive to conserving judicial resources. In practice, it is necessary to strengthen coordination between adjudication and enforcement, and to guard against possible circumstances that would harm the lawful rights and interests of other creditors.

First, adopting the preservation-deduction measure before enforcement docketing is conducive to giving full play to the institutional function of property preservation. The property preservation system safeguards the litigation interests of creditors by restricting the disposition of the property of the person subject to preservation, and its essence lies in safeguarding the performance of effective legal instruments. Article 106 of the Civil Procedure Law of the People's Republic of China provides that the methods of property preservation are “sealing, seizure, freezing or other methods prescribed by law,” the effect of which is to achieve control over the property of the person subject to preservation rather than its disposition. Due to the nature of preservation measures, in the past, even if a debtor was willing to voluntarily use preserved property to repay debts, usually only two measures could be taken: one was to lift the preservation measure and then have the debtor perform the corresponding obligations; the other was to have the creditor apply to the people's court for compulsory enforcement after the judgment became effective. However, the former carries the risk of transferring property and evading performance, while the latter affects the timely realization of the rights and interests of the rights holder and causes credit impairment to the debtor. In fact, the voluntary performance by the person subject to preservation and its application to the people's court for deduction of the preserved funds is a disposition by the parties of their own rights, which conforms to the purpose of the preservation system, is conducive to promoting the voluntary and timely performance of effective legal instruments and maximizing the protection of the lawful rights and interests of all parties, and also helps reduce enforcement cases at the source and save enforcement costs. Therefore, before enforcement docketing, where the person subject to preservation applies for deduction of preserved funds for performance of obligations under an effective legal instrument, the people's court, upon examination, may grant permission and deduct the corresponding funds of the person subject to preservation if it finds that there are no circumstances that might harm the lawful rights and interests of other creditors. Where the debt is fully satisfied through the above procedure, the people's court may issue a certificate of voluntary performance to the person subject to preservation.

Second, when adopting the preservation-deduction measure before enforcement docketing, the people's court shall strictly examine whether the parties' application involves risks such as false litigation and individual settlement that might harm the lawful rights and interests of other creditors. Where a party applies for the preservation-deduction measure before enforcement docketing, the court shall explain to it the legal consequences of maliciously harming the interests of other creditors through false litigation and other means, and require it to submit a commitment letter; after accepting the party's application, the court shall proactively search and verify the situation of the debtor's involvement in litigation and enforcement cases. If it is found that the debtor has other litigation or enforcement cases, the court shall, based on the specific circumstances of the case and on the basis of not affecting the interests of other creditors, prudently decide whether to adopt the relevant preservation-deduction measure.

## Relevant Legal Provisions

Article 106 of the Civil Procedure Law of the People's Republic of China



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