

SIS Prosegur Holding Pvt. Ltd.

Civil Writ Jurisdiction Case No.17472 of 2023

FORUM

Patna High Court

ORDER DATE

22 Mar 2024

NOTE TYPE

Source extract

01 CONCLUDING COURT PASSAGE - SOURCE EXTRACT

The petitioner, hence, seeks refund of the amounts already attached and recovered from the petitioner's account. The petitioner also relies on judgment at Annexure-9 of another Division Bench of this Court. 8. Annexure-9 decision was in a batch of three writ petitions where attachment of the bank accounts of the assessee were made, when the assessment orders which created the demand were challenged in appeal after depositing 20% of the disputed tax amount under the Value Added Tax Act. Identical to the case herein, the attachment order was made of a cash credit account, which is a credit facility offered to the customer by the bank subject to a limit; which even if not overdrawn to the limit, would still not have any money belonging to the assessee as distinguished from a credit balance in a current account. But therein the demand was not met, which was met in the present case; which detains us from directing a refund. 9. We make it clear that if the assessment is set aside, the assessee would be entitled to the refund along with interest payable as per the statute or that paid by the assessee in the cash credit account; whichever is higher and if not, the assessee would be saved from the interest on the amount recovered in the intervening period. In that circumstance, we are of the opinion that there is no requirement to direct the assessee to be refunded the 20% already recovered. There shall be no further recovery based on the impugned assessment till the appeal is disposed of. 10. The writ petition stands disposed of with the above observations but without anything said about the merits of the assessment made.

SOURCE & VERIFICATION

Supplied court copy / compilation pp. 897-901

READ ORDER

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