



W.P. No.1889 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.1889 of 2025

and

WMP.Nos.2161 & 2162 of 2025

M/s.Winrich Industries
Represented by its Partner,
Mrs.M.Meenakshi
No.129/4b. Sembai Koundanpudur,
Karamadai Road, Cuppayapalayam,
Coimbatore – 641 107.

... Petitioner

Vs.

- 1.The Commercial Tax Officer,
Annur, Coimbatore – III,
6/7, A.T.D.Street, Race Course,
Coimbatore – 641 018.
- 2.The State Tax Officer,
Annur Assessment Circle,
6/7, A.T.D.Street, Race Course,
Coimbatore – 641 018.
- 3.The Deputy Commissioner (ST)(FAC)
GST Appeal, Commercial Taxes Building,
6/7, A.T.D. Street, Race Course,
Coimbatore – 641 018.
- 4.The Assistant Commissioner (ST).
Annur Circle, Annur,
Coimbatore – 641 653.



W.P. No.1889 of 2025

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5.The Branch Manager,
Canara Bank,
No.5/26, Mettupalayam Road,
Kavundampalayam,
Coimbatore – 641 030.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking for a Writ of Certiorari call for the records pertaining to the impugned order DRC-07 in Ref.No.ZD331223276064P dated 30.12.2023 passed by the 1st respondent and quash the same.

For Petitioner

... Mr.G.Derrick Sam

For Respondent
Nos.1 to 4

... Mr.TNC Kavshik
Additional Govt. Pleader

ORDER

The present writ petition is filed challenging the impugned order dated 29.12.2023, whereby, the rent paid by the petitioner was subject to tax.

2.It is the case of the petitioner that originally, notice came to be issued vide DRC-01 dated 30.09.2023, wherein, the following issues were proposed:



W.P. No.1889 of 2025

WEB COPY

<i>S.No</i>	<i>Issues</i>	<i>Tax Demanded</i>	<i>Petitioner Accepted/Disputed Tax Demand</i>
1	Issue 1: Mismatch between GSTR 1 and GSTR 3B	Rs.47,003.34	Petitioner accepted the amount and paid the tax
2	Issue 2: Mismatch between GSTR 3B and GSTR 2A	Rs.3,59,410/-	Petitioner accepted the amount and paid the tax
3	Issue 3: Tax demanded on the rent paid to the landlord	Rs.2,33,046/-	Petitioner disputed the tax demand (Demand Confirmed)
4	Issue 4: Non-reversal of Input Tax Credit (ITC) in the case of non payment of consideration to the suppliers within 6 months.	Rs.25,05,694/-	Petitioner disputed the tax demand (Demand Dropped)

3.The petitioner submitted its reply, wherein, the petitioner had accepted the mismatch in respect of issues 1 & 2 and paid the appropriate taxes. While in respect of issue 4, the proposal was dropped. Issue 3, which related to taxes, on rent paid by the petitioner to the landlord, resulting in a tax demand of Rs.2,33,046/-, was confirmed.

4. It is submitted by the petitioner that liability in respect of the rent if any, is only on the lessor i.e. land owner and impugned order insofar as it levies tax on the petitioner/lessee is without jurisdiction inasmuch it result in shifting the point of taxation from the supplier to the recipient.



W.P. No.1889 of 2025

WEB COPY

5.On this being pointed out, the learned counsel for the respondent would submit that they would reconsider and pass orders afresh after providing the petitioner a reasonable opportunity of hearing.

6.In view of the above submission made by the learned counsel for the respondent, this Court has not expressed any opinion on merits and the impugned order is set aside and the respondents are directed to pass orders afresh in accordance with law after affording the petitioner's reasonable opportunity of hearing in respect of Issue 3 supra.

Accordingly, the writ petition is disposed of. No costs.
Consequently, the connected miscellaneous petitions are closed.

Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

sms

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W.P. No.1889 of 2025

WEB COPY

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WEB COPY



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