



CWP-12866-2026 (O&M)

1

137

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP-12866-2026 (O&M)**Date of decision: 20.07.2026**

M/S AMAR NATH AGGARWAL ENTERTAINMENT PVT LIMITED

....Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

**CORAM: HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present: Mr. Sandeep Goyal, Sr. Advocate with
Ms. Aanchal Goyal, Advocate
for the petitioner.

Mr. Sourabh Goel, Addl. A.G., Haryana.

ASHWANI KUMAR MISHRA, A.C.J. (Oral)

1. This matter was adjourned on 28.04.2026 to enable the counsel for the respondents to obtain instructions. The instructions have been obtained and the facts have been verified.
2. Learned counsel for the parties state that for the reasons recorded in our order, the petition may be disposed of finally at this stage itself, without calling for any further affidavit.
3. It transpires that the petitioner is running a restaurant in which certain recreational facilities are also provided. According to the petitioner, it is liable to pay tax at the rate of 5%, while as per the department, the tax payable is 18%. In respect of financial year 2017-18, an assessment order was passed against the petitioner holding it liable to pay tax at the rate of 18%. An appeal was preferred by the petitioner which has since been allowed. The appellate



CWP-12866-2026 (O&M)

2

authority vide its order dated 26.09.2025 contained in Annexure P-5, has accepted the claim of the petitioner that it is only liable to pay tax @ 5%.

4. In the context of proceedings for determination of tax for financial year 2018-19, the matter is pending in appeal. It is in respect of subsequent financial year 2019-20 that the proceedings have again been initiated and orders (Annexure P-10) have been passed against the petitioner, which are impugned herein.

5. It is submitted that once the proceedings in respect of earlier F.Y. 2017-18, on the same ground, have concluded with orders passed in favour of the petitioner in appeal, the subsequent orders passed by the assessing authority holding the petitioner liable to pay tax at 18% is unlawful. Reliance is placed upon the judgment of the Supreme Court in *Union of India vs. Kamalakshi Finance Corporation Ltd., AIR 1992 (SC) 711*.

6. Learned counsel representing the respondents has obtained instructions, according to which an appeal has been presented by the Revenue against the order dated 26.09.2025 (Annexure P-5). The acknowledgment of filing of appeal has been placed before the Court, which is taken on record.

7. Even though an appeal has been preferred by the Revenue, but as of now, the appellate order dated 26.09.2025 (Annexure P-5) has not been interfered with. Once that be the factual position, the assessing authority could not have passed an order in respect of the subsequent year holding the petitioner liable to payment of tax at 18%, notwithstanding the order passed by the appellate authority on 26.09.2025. The only course available for the Revenue would be to await the outcome of its appeal, filed in respect of previous financial year 2017-18, and to file a fresh appeal in terms of section 107(2) of the GST



CWP-12866-2026 (O&M) 3

Act, 2017, if its appeal in respect of previous year is accepted. That being the settled legal position, as per the law laid down by the Supreme Court in *Kamalakshi Finance Corporation Ltd.* (supra), the impugned orders cannot be sustained.

8. Writ petition, consequently succeeds and is allowed. The matter stands remitted to the adjudicating authority for proceeding afresh in accordance with law. The impugned order dated 30.03.2026 (Annexure P-10) is set aside.
9. Pending applications, if any, shall stand disposed of accordingly.

(ASHWANI KUMAR MISHRA)
ACTING CHIEF JUSTICE

20.07.2026
mohit goyal

(ROHIT KAPOOR)
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No