



JUDGEMENT

Supply of In-flight Food and Beverages to Airlines Not Classified as Outdoor Catering Services

Issued By:	Honorable Supreme Court
In Case Of:	Ambassador Sky Chef
Order No:	Civil Appeal 53701/2024
Order Date:	2 nd January 2025

FACTS & OBSERVATIONS

- The Department alleged that Ambassador Sky Chef evaded service tax by undervaluing taxable services. The key contention was whether the supply of food and beverages to airlines constitutes "outdoor catering services" or merely the sale of goods.
- Department argued that the supply of food and beverages, along with related services (transportation, handling, etc.), constitutes "outdoor catering services."
- Claimed the activity falls under "Declared Services" under Section 66E(i) of the Finance Act, 1994.
- Alleged short-payment of service tax amounting to ₹18.13 crores for the period July 2012 to March 2016.

JUDGEMENT

- The SC observed that for an activity to qualify as "outdoor catering," it must involve preparation, supply, and serving of food. Merely supplying food to airlines with additional services does not fulfill this definition.
- It also relied on case law, including Tamil Nadu Kalyana Mandapam Association v. Union of India and Narang Hotels and Resorts v. State of Maharashtra, which clarified the distinction between sale of goods and service tax liability.
- Based on these it upheld that supply of food and beverages to airlines is a sale of goods and not "outdoor catering services."
- Dismissed the Department's appeal, confirming that such activities fall under sales tax and not service tax. Declared the issue as no longer res integra and affirmed the earlier order dropping the service tax demand.

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