

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH**

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 53928 of 2014

[Arising out of Order-in-Original No. CHD-CEX-001-COM-23-2014 dated 28.03.2014 passed by the Commissioner, Chandigarh-I]

M/s Chandigarh Institute of Hotel Management & Catering TechnologyAppellant
Sector 42D, Chandigarh

VERSUS

Commissioner of CGST, ChandigarhRespondent
Plot No. 19, Sector 17-C, Chandigarh 160017

APPEARANCE:

Shri Rakesh K. Khanna, CA for the Appellant

Shri Anurag Kumar and Ms. Amita Gupta, Authorized Representatives for
the Respondent

**CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)**

FINAL ORDER NO. 60006/2026

DATE OF HEARING:06.01.2026

DATE OF DECISION:06.01.2026

S.S.GARG:

The present appeal is directed against the impugned order dated 28.03.2014 passed by the Commissioner of Central Excise & ST, Chandigarh, whereby, the learned Commissioner (Appeals) has confirmed the demand of service tax of Rs. 66,24,616/- along with interest under Section 75 and also imposed equal penalty under

Section 78 and penalty of Rs. 10,000 under Section 77 of the Finance Act.

2. Briefly the facts of the present case are that the appellant is duly registered with the Service Tax Department for providing 'Mandap Keepers , 'Dry Cleaning' and 'Restaurant and Hotel Accommodation services and also engaged in supplying Mid Day Meals to the Education Department, Chandigarh Administration. The Department entertained the view that the supply of cooked food in Mid Day Meals amounts to rendering 'Outdoor Catering Services' and accordingly, a show cause notice dated 04.10.2012 proposing demand of service tax under the category of "Outdoor Caterer's Service" for the period from April 2007 to June 2012 was issued to the appellant. The appellant filed its reply and submitted to the Department that they do not fall in the definition of 'Outdoor Catering Services'. After following the due process, the learned Commissioner (Appeals) vide the impugned order has confirmed the demand. Hence, the present appeal.

3. Heard both the parties and perused the material on record.

4. Learned consultant appearing on behalf of the appellant submits that the impugned order is not sustainable in law as the same has been passed without properly appreciating the facts and the binding judicial precedents. He further submits that though the appellant is registered with the Department for certain category of services namely, Mandap Keeper's Services, Dry Cleaning Services and services provided by the restaurant, but the impugned

transaction related with sale of Mid Day Meals to Education Department, Chandigarh Administration under Government Scheme and the appellant has supplied the meals at its own premises and did not charge/collect nor paid service tax on the same as the same was considered to be not liable to service tax as per applicable provisions of the Act including that of 'Outdoor Catering Services' as defined u/s 65(105) (ztt) of Finance Act, 1994.

4.2 He further submits that the payment received towards supply of cooked food -Mid Day Meal is nothing but a sale of cooked food to the Education Department and for that the appellant is registered with the Sales Tax Department of Chandigarh, under Rule 5 of Punjab Central Sales Tax Rules, 1948 as in force in U.T., Chandigarh and has been regularly discharging its obligations by paying service tax under the said Act. He further submits that the appellant was established by the Central Government, and Chandigarh Administration, is managed by Board of Governors with Secretary Tourism, U.T. Administration Chandigarh as its Chairman and other representatives from Central Government. U.T. Administration, Chandigarh and the activities performed by the appellant are more in the nature of a social work rather than a commercial trading/activity and the objective of the appellant institute is to provide gainful opportunities of employment to the students and the activities undertaken by the appellant are towards meeting Government of India/UT social welfare measures to improve education and nutrition levels in the society and are of statutory in nature. He also submits that the appellant institute gets grant-in-aid

from Government of India and is subject to audit by the Principal Accountant General (Audit) Punjab & U.T. Chandigarh.

4.3 He further submits that identical issued was considered by the Delhi Tribunal, in the case of ***M/s Ambedkar Institute of Hotel Management Vs. Commissioner of Central Excise & Service Tax, Chandigarh reported in 2015 (60) taxmann.com 370***. He further submits that the ratio of the case of M/s Ambedkar Institute of Hotel Management squarely applicable in the present case, wherein, the Tribunal has set aside the demand on the sale of mid-day meal under the category of 'Outdoor Catering Services'.

5. On the other hand, learned Authorized Representative for the Department reiterates the findings of the impugned Order.

6. After considering the submissions of both the parties and perusal of the material on record, we find that the sale of Mid-Day Meal by the appellant to the Education Department of Chandigarh does not fall in the definition of 'Outdoor Catering Services'. The appellant merely cooked the food which is being picked up by the staff assigned by Education Department and stationed at the appellant's institute. The cooked meals are picked up by the Education Department through its contracted transported agencies and transported from appellant's premises.

7. Further, we find that the appellant is duly registered under the Sales Tax Department of Chandigarh and is paying sales tax on the sale of cooked food for Mid-Day Meals. We also find that identical

case was considered by the Tribunal, Delhi in the case of M/s Ambedkar Institute of Hotel Management (cited supra), wherein, after examining of the plea, the Tribunal has held in para 6 as under:

"6. We have considered the submissions of both the sides and perused the record. From the facts stated in the show-cause notice as well as in the order-in-original, it is seen that the appellant are preparing the meals as per the fixed menu which are to be served in various schools of Chandigarh Administration under the midday Meal Scheme of the Government. Neither there is any allegation nor there is any evidence to show that the appellant had prepared the meals at the schools where the same were to be served or were in any manner involved in serving the meals. Meals prepared by them are simply supplied at the predetermined rates to Education Department. The service which is covered under Section 65(105)(zzt) is the service provided or to be provided to any person by an outdoor caterer and not by any caterer. The outdoor caterer as defined in Section 65(76a) means a caterer engaged in providing services in connection with catering at a place other than his own but including a place provided by way of tenancy or otherwise by the person receiving such services. Since the appellant are preparing midday meals in their Institute and not in the schools where the

meals are served and are not involved in serving of the meals in any manner, in our view they are not covered by the definition of outdoor caterer' and hence their activity of preparing and supplying meals for midday scheme would not be covered by the definition of taxable service under Section 65(106(zzt)). Accordingly the duty demand on this count would not be sustainable.”

8. Since, the issue involved in the present case is squarely covered by the decision of the Tribunal, Delhi in the case of Ambedkar Institute of Hotel Management (cited Supra). Therefore, by following the ratio of the said decision, we are of considered opinion that the impugned order is not sustainable in law and therefore, we set aside the same by allowing the appeal of the appellant with consequential relief, if any, as per law.

(Operative part of the order pronounced in the open court)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)