

Restrictions on service charges by hotels and restaurants

Background: On 4 July 2022, the Central Consumer Protection Authority (CCPA) issued guidelines for 'preventing unfair trade practices and protection of consumer interest' about levying service charges in hotels and restaurants. CCPA noticed that restaurants and hotels levy service charge in the bill by default, without informing consumers that such charge is voluntary and optional. Further, the charge so levied is in addition to the total price of the food items mentioned in the menu and the applicable taxes thereon, often disguised as some other fee or charge.

Guidelines to prevent unfair trade practices

1. No mandatory service charges/charges under any other name

According to the guidelines issued on 4 July 2022,

- i. the hotels and restaurants shall not include a service charge in the food bill 'by default'.
- ii. the service charge shall not be collected from consumers by any other name.
- iii. no hotel/restaurant shall force a customer to pay the service charge/fee and must expressly state that the charge is voluntary, optional, and up to the customer's judgement.

2. GST component

'Service component' is inherent in the price of food and beverages offered by the restaurant/hotel. Hence, the service charge shall not be collected by adding it along with the food bill and levying GST on the total amount. Charging anything other than the price of food indicated in the 'menu' amounts to unfair trade practices.

3. Grievance redressal mechanism

- i. A consumer may directly request the hotel to remove the service charge in violation of the guidelines if it is included in the invoice.
- ii. Filing complaints through various channels, i.e., contacting the National Consumer Helpline, the Consumer Commission and approaching the District Collector are other modes of filing the grievances.

<https://consumeraffairs.nic.in/sites/default/files/file-uploads/latestnews/Guidelines%20to%20prevent%20unfair%20trade%20practices%20and%20protection%20of%20Consumer%20Interest%20with%20regard%20to%20levy%20of%20service%20charge%20in%20hotels%20and%20restaurants.pdf>

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Therefore

The decision to pay tips or gratuity by a consumer does not arise merely by entering the restaurant or placing an order. The service charge cannot be added to the bill involuntarily, without allowing consumers the discretion to decide whether they want to pay such a charge or not. The newly notified guidelines will be a positive step in enabling consumers to get cognisance of their grievances in a timely manner.

Further, the CCPA has empowered the district collectors to conduct investigations pertaining to violations of the guidelines and submit the report to the CCPA within 15 days. It also intends to give wide publicity to the guidelines.