

GOVT. OF NATIONAL CAPITAL TERRITORY OF DELHI
DEPARTMENT OF FOOD SUPPLIES & CONSUMER AFFAIRS
K - BLOCK, VIKAS BHAWAN, I.P.ESTATE, NEW DELHI-02
(CONSUMER AFFAIRS BRANCH) Ph.23370781

No.F. 50/222(26)/F&S/CA/2022/ 749-752

Dated:- 27/7/22

To

1. The President State Consumer Disputes Redressal Commission, A-Block, Vikas Bhawan, New Delhi
2. The Presidents of All Consumer Disputes Redressal Forum/Commission
3. Office of the Divisional Commissioner, Delhi, Revenue Department, 5 Sham Nath Marg, Delhi-110054. (All 11 Districts)
4. Office of the Commissioner, Department of Excise, Entt. & Luxury Tax Govt of NCT of Delhi, L & N Block, Vikas Bhawan, IP Estate, New Delhi.

Subject :- To prevent unfair trade practices and protection of Consumer interest with regard to levy of service charge in hotels and restaurants.

Sir/Madam,

I am directed to forward herewith DO No. J-25/57/2022-CCPA dated 04/07/2022, received from Government of India, Ministry of Consumer Affairs, Food and Public Distribution, Department of Consumer Affairs, Krishi Bhawan, New Delhi-110001 enclosed therewith the Guidelines to prevent unfair trade practices and protection of Consumer interest with regard to levy of service charge in hotels and restaurants. It has been requested to arrange wide publicity to prevent unfair trade practices and protection of Consumer interest with regard to levy of service charge in hotels and restaurants and direct the District Collectors to take appropriate action for protection of Consumer rights in light of the said guidelines. (copy enclosed)

It is, therefore, requested to direct all the District Collectors to make arrangement for wide publicity of the attached guidelines and take appropriate action for protection of Consumer rights in light of the said guidelines.

Yours faithfully,

Enclosure :- As above.

Assistant Director
(Consumer Affairs)

Copy to :

- ✓ 1. Sr. System Analyst, F&S department to upload on the departmental website.

798/SSA/2d
02/08/22

Pl. upload.

Amit

Kujer
03/8/2022

निधि खरे, आ.प्र.से.

अपर सचिव

NIDHI KHARE, I.A.S.

Additional Secretary
CHIEF COMMISSIONER
Central Consumer Protection Authority (CCPA)

Tel. : 011-23383027

Fax : 011-23386575

E-mail : as-ca@nic.in



भारत सरकार
उपभोक्ता मामले, खाद्य एवं सार्वजनिक वितरण मंत्रालय
उपभोक्ता मामले विभाग
कृषि भवन, नई दिल्ली-110001
Government of India
Ministry of Consumer Affairs, Food and
Public Distribution
Department of Consumer Affairs
Krishi Bhawan, New Delhi - 110001

D.O. No.J-25/57/2022-CCPA

04th July, 2022

Dear Sir,

It has come to the notice of the Central Consumer Protection Authority (CCPA) that many complaints have been registered on National Consumer Helpline with regard to levying of service charge. These include complaints of restaurants making service charge compulsory and adding it in the bill by default even though collection of any such charge is optional and voluntary for the consumer and not mandatory as per law.

2. Under Section 18(2)(i) of the Act, CCPA has issued guidelines to prevent unfair trade practices and protection of consumer interest with regard to levy of service charge in hotels and restaurants. The guidelines are attached as **Annexure - I**.

3. It may be mentioned that under **Section 17 of the Act**, a complaint relating to violation of consumer rights or unfair trade practices which is prejudicial to the interests of consumers **as a class** may be forwarded in writing or in electronic mode to the District Collector. Further, the District Collector is empowered to inquire or investigate such complaint and submit his report to the Central Authority.

4. Since levying of service charge in violation to the guidelines would affect consumers as a class, District Collectors may take cognizance of such complaints. Consumers may submit their complaint for levying of service charge in violation of the annexed guidelines to the District Collector who may inquire or investigate the same and submit his report to CCPA.

5. In view of the above, I request you to kindly arrange for wide publicity of the attached guidelines and direct the District Collectors to take appropriate action for protection of consumer rights in light of the said guidelines.

With regards,

Encl: Annexure-I

Shri Naresh Kumar
Chief Secretary
Government of Delhi

Yours sincerely,

(Signature)
5/7/2022
(Nidhi Khare)



F.No. J-25/57/2022-CCPA
Central Consumer Protection Authority

Krishi Bhawan, New Delhi
Dated: 4th July, 2022.

Subject: Guidelines to prevent unfair trade practices and protection of consumer interest with regard to levy of service charge in hotels and restaurants.

The Central Consumer Protection Authority (CCPA), has been established under the Consumer Protection Act, 2019 (hereinafter called 'the Act') to regulate matters relating to violation of rights of consumers, unfair trade practices and false or misleading advertisements which are prejudicial to the interest of public and consumers and to promote and enforce the rights of consumers as a class.

2. Under Section 18(2)(i) of the Act, the CCPA is empowered to issue necessary guidelines to prevent unfair trade practices and protect consumers' interest.

3. It has come to the notice of the CCPA through many grievances registered on the National Consumer Helpline that restaurants and hotels are levying service charge in the bill by default, without informing consumers that paying such charge is voluntary and optional. Further, service charge is being levied in addition to the total price of the food items mentioned in the menu and applicable taxes, often in the guise of some other fee or charge.

4. It may be mentioned that a component of service is inherent in price of food and beverages offered by the restaurant or hotel. Pricing of the product thus covers both the goods and services component. There is no restriction on hotels or restaurants to set the prices at which they want to offer food or beverages to consumers. Thus, placing an order involves consent to pay the prices of food items displayed in the menu along with applicable taxes. Charging anything other than the said amount would amount to unfair trade practice under the Act.

5. It is understood that a tip or gratuity is towards hospitality received beyond basic minimum service contracted between the consumer and the hotel management, and constitutes a separate transaction between the consumer and staff of the hotel or restaurant, at the consumer's discretion. Only after completing the meal, a consumer is in a position to assess the quality and service and decide whether or not to pay tip or gratuity and if so, how much. The decision to pay tip or gratuity by a consumer does not arise merely by entering the restaurant or placing an order. Therefore, service charge cannot be added in the bill involuntarily, without allowing consumers the choice or discretion to decide whether they want to pay such charge or not.

6. Further, any restriction of entry based on collection of service charge amounts to a trade practice which imposes an unjustified cost on the customer by way of forcing him/her to pay service charge as a condition precedent to placing order of food and

1/c

beverages, and falls under restrictive trade practice as defined under Section 2(41) of the Act.

7. Therefore, to prevent unfair trade practices and protect consumer interest with regard to levying of service charge, the CCPA issues the following guidelines—

- (i) No hotel or restaurant shall add service charge automatically or by default in the bill.
- (ii) Service charge shall not be collected from consumers by any other name.
- (iii) No hotel or restaurant shall force a consumer to pay service charge and shall clearly inform the consumer that service charge is voluntary, optional and at consumer's discretion.
- (iv) No restriction on entry or provision of services based on collection of service charge shall be imposed on consumers.
- (v) Service charge shall not be collected by adding it along with the food bill and levying GST on the total amount.

8. The aforementioned guidelines shall be in addition to and not in derogation of the guidelines dated 21.04.2017 published by the Department of Consumer Affairs.

9. If any consumer finds that a hotel or restaurant is levying service charge in violation to the above-mentioned guidelines, a consumer may:-

- (i) Make a request to the concerned hotel or restaurant to remove service charge from the bill amount.
- (ii) Lodge a complaint on the National Consumer Helpline (NCH), which works as an alternate dispute redressal mechanism at the pre-litigation level by calling 1915 or through the NCH mobile app.
- (iii) File a complaint against unfair trade practice with the Consumer Commission. The Complaint can also be filed electronically through e-daakhil portal www.edaakhil.nic.in for its speedy and effective redressal.
- (iv) Submit a complaint to the District Collector of the concerned district for investigation and subsequent proceeding by the CCPA. The complaint may also be sent to the CCPA by e-mail at com-ccpa@nic.in.


Nidhi Khare
Chief Commissioner, CCPA