

Business Standard

Hotels, restaurants can't force customers to pay service charge: CCPA order

Service charge in hotel/restaurant bill cannot be collected from consumers by any other name; can't be added to food bill, states CCPA order

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Amid
rising
consumer

(Photo: ANI)

complaints, the Central Consumer Protection Authority (CCPA) on Monday barred hotels and restaurants from levying service charge automatically or by default in food bills and allowed customers to file complaints in case of violation.

The CCPA has issued guidelines for preventing unfair trade practices and violation of consumer rights with regard to levying of service charge.

"No hotels or restaurants shall add service charge automatically or by default in the bill," CCPA Chief Commissioner said in the guideline.

Restaurants and hotels generally levy a service charge of 10 per cent on the food bill.

The guidelines said there should not be any collection of service charge by any other name.

No hotel or restaurant can force a consumer to pay service charge. They have to clearly inform the consumer that service charge is voluntary, optional and at consumer's discretion.

"No restriction on entry or provision of services based on collection of service charge shall be imposed on consumers," the guideline added.

Further, service charge cannot be collected by adding it along with the food bill and levying GST on the total amount.

If any consumer finds that a hotel or restaurant is levying service charge in violation of the guidelines, s/he can request the concerned establishment to remove it from the bill amount.

The consumers can also 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.

They can also file complaints with the Consumer Commission. The complaint can be filed electronically through the e-Daakhil portal for its speedy and effective redressal.

Moreover, the consumer can submit a complaint to the District Collector of the concerned district for investigation and subsequent proceedings by the CCPA. The complaint can also be sent to the CCPA by e-mail.

The CCPA said it has observed, through grievances registered on NCH, that hotels and restaurants are levying service charge in the bill by default without informing consumers that paying such a charge is voluntary.

"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," it added.

The guidelines state that a component of service is inherent in price of food and beverages offered by a restaurant or hotel.

"Pricing of the product 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 practices under the (Consumer Protection) Act," the guidelines said.

The CCPA, in its guidelines, said 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/restaurant at the consumer's discretion.

Only after completing the meal, a consumer is in a position to assess the quality as well as service and decide whether or not to pay a tip and if so, how much.

The decision to pay a tip 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," the guidelines said.

Further, any restriction of entry based on collection of service charge amounts to unfair trade practice, it added.

The government had earlier in 2017 come out with guidelines on service charge, where it had said the levy has to be voluntary and not mandatory.

According to an official statement, various cases relating to levying of service charge have also been decided by consumer commissions in favour of consumers, holding the same as an unfair trade practice and in

violation of consumer rights.

The CCPA has been established under the Consumer Protection Act, 2019 to regulate matters relating to violation of rights of consumers, unfair trade practices and false or misleading advertisements. It has been set up to promote and enforce the rights of consumers as a class.