

No.J-24/9/2014-CPU (Pt)
Government of India
Ministry of Consumer Affairs, Food & Public Distribution
(Department of Consumer Affairs)

Krishi Bhavan, New Delhi
The 14 December, 2016

To,
The Secretary
Food, Civil Supplies and Consumer Protection
Of all State/UT Governments

Subject: - Service charges by hotels and restaurants -Clarification regarding

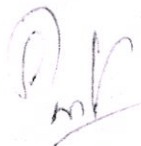
Sir/Madam,

I am directed to say that it has come to the notice of this Ministry through a number of complaints from consumers received in the National Consumer Helpline that hotels and restaurants are following the practice of charging 'service charge' in the range of 5-20%, in lieu of tips. A consumer is forced to pay this charge irrespective of the kind of service provided to him. The consumers are also required to pay service tax on this service charge so collected by the hotels and restaurants.

2. The Consumer Protection Act, 1986 provides that a trade practice which, for the purpose of promoting the sale, use or the supply of any goods or for the provision of any service, adopts any unfair method or deceptive practice, is to be treated as an unfair trade practice. The said Act further provides that a consumer can make a complaint to the appropriate consumer forum established under the Act against

- (i) an unfair trade practice adopted by any trader or service provider
- (ii) the services hired or availed of, suffered from deficiency in any respect
- (iii) a trader or service provider, as the case may be, has charged for the goods or for the services a price in excess of the price (a) fixed by or under any law for the time being enforce, (b) displayed on the goods or any package containing such goods, (c) displayed on the price list exhibited by him or under any law for the time being in force or (d) agreed between the parties.

3. The Hotel Association of India, Bhikaji Cama Place, New Delhi, on the matter being taken up with them, observed that the service charge is completely discretionary.

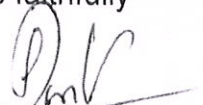


Should a customer be dissatisfied with the dining experience he/she can have it waived off. Therefore, it is deemed to be accepted voluntarily.

4. In the circumstances, it is requested that the State Government may sensitize the companies, hotels and restaurants in the state regarding aforementioned provisions of the Consumer Protection Act, 1986. Information may also be disseminated through display at the appropriate place in the hotel/restaurants that the 'service charges' are discretionary/ voluntarily and a consumer dissatisfied with the services can have it waived off.

5. Further, a number of consumers have also submitted complaints to the effect that most of the retail outlets do not issue a bill to the consumer in respect of the goods bought by him. The consumer has a right to a bill for the goods bought by him. The State Government may also issue instructions to the retail outlets in the state to invariably issue a bill to a consumer for the purchases made by him.

Yours faithfully



(G C Rout)

Deputy Secretary to the Govt of India

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