
Service Charges and Tipping in India – What the Law Says

Abstract

The service charge levied on restaurant and hotel bills in India has always left consumers puzzled about what they are actually supposed to pay¹. This article will decode the law regarding service charges and tips, discussing how they differ from voluntary payments and mandatory taxes such as GST. It will examine the Consumer Protection Act of 2019, the role of the Central Consumer Protection Authority, and the guidelines issued in 2022, which are intended to put an end to unfair billing practices. The article will also examine the ruling of the Delhi High Court, which has upheld that service charges are optional and cannot be imposed on consumers. Through the compilation of legal provisions, government guidelines, and court rulings, this article hopes to provide clarity on consumer rights and promote greater transparency in the hospitality sector.

Introduction

In the vibrant hospitality industry in India, the question that has been on the minds of many patrons is: “Do I have to pay the service charge?” Many people have assumed that when they see a service charge listed on their restaurant bill, usually between 5% and 15% of the total amount, it is mandatory.² Others have considered it to be the same thing as tipping or gratuity. But what has happened recently is that the legal framework has completely changed this scenario, and it is important to know what the law says on the matter.

What Is a Service Charge vs. a Tip (Gratuity)?

Service charge is a fixed amount or percentage of money that is added to the customer’s bill by the restaurant, ostensibly to compensate the staff for the service provided. It is not a statutory tax, nor is it mandated by any piece of primary legislation, such as the GST regime. Tip/Gratuity: This is a voluntary payment made by the customer based on their assessment of service quality.³

In simpler terms:

Service Charge: Usually a fixed percentage imposed by establishments without discussion; meant for staff but paid to the restaurant.

¹ LawBeat, ‘Service Charge Voluntary, Customer Cannot Be Made to Pay: Delhi High Court’ (LawBeat, 28 March 2025).

² Legal Assist, ‘Service Charge in Indian Restaurants: Mandatory or Not?’ (Legal Assist, 2023).

³ Department of Consumer Affairs, Government of India, *Guidelines to Prevent Unfair Trade Practices and Protection of Consumer Interest with Regard to Levy of Service Charge in Hotels and Restaurants* (2022).

Tip/Gratuity: A voluntary payment made by the customer to the staff or through the restaurant.

Although many consumers (and even some restaurants) consider the two terms as one, they are actually distinguished by law.

The Legal Position: Consumer Protection Act, 2019

The major statute in this regard is the Consumer Protection Act, 2019 (“CPA, 2019”), which aims to safeguard consumers against any unfair trade practice and ensure transparency in any transaction.

Central Consumer Protection Authority (CCPA)

The Central Consumer Protection Authority (CCPA) was formed as a regulatory body under Section 10 of the CPA, 2019, to prevent any unfair trade practice and safeguard consumer interests.⁴

In July 2022, the CCPA issued the “Guidelines to Prevent Unfair Trade Practices and Protection of Consumer Interest with Regard to Levy of Service Charge in Hotels and Restaurants” under Section 18(2)(l) of the Act. The said guidelines are of prime importance to understand the legal position.⁵

The guidelines issued in 2022 have laid down strict norms regarding the treatment of service charges:

1. No restaurant or hotel can automatically or by default charge the service charge on the food bill. This is deemed to be unfair.
2. Service charges cannot be collected under any other name (such as “staff welfare fund” and so on).
3. Restaurants must make it clear to their customers that the service charge is voluntary and optional, and that it is at the discretion of the customer.
4. Refusal to pay the service charge cannot in any way affect the consumer’s right to service or access.
5. Service charge cannot be charged on the bill and then subjected to GST.

These norms were laid down due to the fact that consumers were complaining that they were being forced to pay additional charges that they did not understand or agree to.

Landmark Delhi High Court Ruling (March 2025)

⁴ Consumer Protection Act 2019.

⁵ Consumer Protection Act 2019, ss 2(46), 2(47).

The guidelines were contested by trade associations, specifically the National Restaurant Association of India (NRAI) and the Federation of Hotels and Restaurant Associations of India (FHRAI), before the Delhi High Court⁶. The trade associations claimed that service charges were a part of the pricing contract and were necessary for employee remuneration. However, on 28 March 2025, the Delhi High Court supported the CCPA's guidelines and made a clear ruling: Service charges are voluntary and discretionary; they cannot be made mandatory or compulsory.⁷ Making a compulsory service charge is an unfair trade practice as defined by Sections 2(46) and 2(47) of the Consumer Protection Act, 2019. The ⁸Court made it clear that customers cannot be forced to pay service charges that they have not opted for voluntarily.⁹

¹⁰**Consumer Rights and Enforcement**

After the Delhi High Court's nod to the CCPA's guidelines:

The CCPA has acted against restaurants that have been forcing customers to pay mandatory service charges¹¹. For instance, 27 restaurants were recently probed, and refunds were demanded for violating this rule.

Consumers are entitled to demand the reversal of service charges if they are imposed without their consent.

Complaints can be filed through the National Consumer Helpline (1915), the e-Daakhil website, or direct complaints to the CCPA.

The above complaint mechanism ensures that the guidelines are not just recommendations but also have teeth to back them up.

GST and Service Charges

Another issue that is related but not well understood is the GST on service charges. According to GST law, any amount paid by a customer can be liable to GST if it is part of the consideration for supply under Section 15 of the CGST Act, 2017.¹²

⁶ Lexology, 'India: Delhi High Court Upholds CCPA Guidelines on Service Charge' (Lexology, 2025).

⁷ National Restaurant Association of India v Union of India (Delhi High Court, 28 March 2025).

⁸ National Restaurant Association of India v Union of India (n 13).

⁹ LawBeat (n 1).

¹⁰ Central Goods and Services Tax Act 2017, s 15.

¹¹ SCC Online, 'CCPA Action Against Mandatory Service Charges' (SCC Online, 2026).

However, since service charges are now voluntary and not mandatory, the GST on service charges that have not been agreed to by the customer can itself be considered contentious. The CCPA guidelines clearly state that the service charge should not be added to the bill with GST.

Unlike GST, which is mandatory and collectible, the service charge is a contractual or voluntary component – which means that GST on the service charge cannot be imposed without the customer's agreement.

Practical Takeaways for Diners and Restaurants

For Diners:

- You cannot be compelled to pay a service charge.
- If a service charge is added to your bill without your consent, you can ask for it to be removed.
- If your request is denied, you can take up the matter with the legal authorities or consumer protection agencies.
- Service charge or tip is your discretion, depending on your satisfaction with the service.

For Restaurants:

- Service charge cannot be automatically added or made mandatory.
- Any amount paid voluntarily should be clearly communicated and agreed upon.
- Service charge cannot be added to GST or collected under deceptive names.
- There can be penalties, refunds, and other actions taken against the restaurant.

Conclusion

The position of the law in India is now clear: service charges are voluntary and not compulsory. ¹³While restaurants can suggest or accept service charges or tips, they cannot enforce them as a mandatory addition to the bill, as this amounts to an unfair trade practice. On the other hand, tipping is a matter of personal choice and appreciation and is not to be confused with statutory taxes such as GST. As consumer awareness increases, the hospitality industry in India will have to fall in line with the legal requirements.

¹³ National Restaurant Association of India v Union of India (n 13).