

A service fee added to a water bottle that costs 100 rupees? Delhi High Court irritated

The Bench asked the organizations' counsel to justify the imposition of the service charge given that eateries were already raising the prices of necessities.

Restaurant associations were fined by the Delhi High Court on Friday for adding a service fee to already exorbitant pricing for pre-packaged commodities that were sold for more than the Maximum Retail Price (MRP).

The National Restaurant Association of India (NRAI) and the Federation of Hotels and Restaurant Associations of India (FHRAI) filed an appeal against a single judge's ruling that levying a service charge above the bill amount was unlawful. The appeal was being heard by a Division Bench consisting of Chief Justice Devendra Kumar Upadhyaya and Justice Tushar Rao Gedela.

The Bench asked the organizations' counsel to justify the imposition of the service charge given that eateries were already raising the prices of necessities.

"Why should the consumer pay a service charge when you are asking ₹100 for a ₹20 water bottle? Furthermore, why don't you mention on your menu that the additional ₹80 is intended just for ambience? For the experience of dining at your restaurant, you are charging more than the MRP. Additionally, you are charging for the same service that was provided. That should already be covered by creating an atmosphere for a particular type of experience—this is something we don't comprehend," the Bench stated.

The courts issued a warning that such actions could not go unchallenged.

"This isn't possible. Creating ambiance is a component of the service. Is it possible to charge more than the MRP? The Court questioned, "And then again, collect a service charge—what is that extra for?"

How restaurants can impose GST on service charges was another concern raised by the court. It instructed the GST department's standing counsel to attend the upcoming hearing in order to provide clarification on this matter. The next hearing on the case is scheduled on September 22.

Attorneys Lalit Bhasin, Nina Gupta, Ananya **Marwah**, **Devvrat** Tiwari, and Ajay Pratap Singh from Bhasin & Co. represented NRAI.

Senior Advocate Sandeep Sethi represented FHRAI.

Chetan Sharma, Additional Solicitor General (ASG), made an appearance for the CCPA.

Guidelines issued by the Central Consumer Protection Authority (CCPA) in 2022 that state that hotels and restaurants should not automatically or by default add service charges to food bills were upheld by a Delhi High Court single-judge on March 28.

The restaurant associations that contested the guideline were also hit with ₹1 lakh in costs by Justice **Prathiba M. Singh**.

The order was issued in response to pleas submitted by the FHRAI and NRAI.

In order to stop unfair trade practices and violations of consumer rights, the CCPA released guidelines.

The following was required by the guidelines:

Service charges cannot be automatically or automatically added to the food bill by hotels or restaurants.

No other name may be used to collect the service charge;

No hotel or restaurant can make a customer pay a service charge without explicitly telling them that it is optional, voluntary, and at their own discretion;

Customers shall not be subject to any limitations on access or service delivery based on service charge collection; and

It is not permitted to collect the service charge by adding it to the food bill and then applying GST to the total.

According to NRAI's argument, there is no law that forbids restaurants from charging a service charge, and no changes have been made to the current legislation that would make this practice unlawful.

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