

Government of India
Ministry of Consumer Affairs, Food and Public Distribution
Department of Consumer Affairs

LOK SABHA
UNSTARRED QUESTION NO. 3941
TO BE ANSWERED ON 20.03.2018

SERVICE CHARGES

3941. SHRI K.C. VENUGOPAL: SHRI OM PRAKASH YADAV: SHRI V. ELUMALAI:

Will the Minister of CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION
उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्री be pleased to state:

- (a) whether it is true that the hotels/ restaurants should not decide how much service charge is to be paid by the customer and it should be left to the discretion of customer;
- (b) whether hoteliers and restaurateurs are of the opinion that levying of service charge is a global practice and a legitimate tax and if so, the views of the Government in this regard;
- (c) whether the Government will take any measures to remove the service charge at restaurants and hotels against the will of consumers and if so, the details thereof;
- (d) whether the Government has made any survey in this regard among the public and if so, the details thereof; and
- (e) whether the Government has constituted any agency in Bihar to ensure compliance of the guidelines issued by the Government to the companies, hotels and restaurants to ensure display of notice that the payment of service charge is voluntary if so, the details thereof along with the number of complaints received in this regard by the Government so far?

ANSWER

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण राज्य मंत्री
(श्री सी. आर. चौधरी)

THE MINISTER OF STATE
CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION
(SHRI C. R. CHAUDHARY)

(a) to (c) : The Govt. issued guidelines on unfair trade practices related to charging of service charge from consumers by hotels/restaurants. The bill presented to the customer may clearly display that service charge is voluntary, and the service charge column of the bill should be blank before making payment. A copy of the guidelines is at **Annexure**.

(d) : An online poll conducted by Local Circles, a social media platform, among 8013 consumers revealed that 37% consumers did not pay service charge at restaurants in January, 2018. On an earlier poll conducted in this regard, the figure stood at 35% for the month of November, 2017.

(e) : No, Madam.

STATEMENT REFERRED IN REPLY TO PARTS (a) TO (c) OF LOK SABHA UNSTARRED QUESTION NO.3941 FOR 20.03.2018 SERVICE CHARGES.

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

Krishi Bhavan, New Delhi
The 21st April, 2017

GUIDELINES ON FAIR TRADE PRACTICES RELATED TO CHARGING OF SERVICE CHARGE FROM CONSUMERS BY HOTELS/RESTAURANTS

Whereas, the Department of Consumer Affairs, Government of India is mandated to ensure that consumers are protected as per the provisions of the Consumer Protection Act, 1986 (hereinafter referred as 'The Act');

Whereas, a customer visiting a hotel or restaurant for availing its hospitality, which includes buying the food & beverages and availing services connected therewith or incidental thereto for consideration, falls under the definition of consumer as per the Act;

Whereas, it has come to the notice of this Department that some hotels and restaurants are charging tips/gratuities from the customers without their express consent in the name of service charges;

Whereas, it has also come to the notice of this Department that some customers have been paying tips to waiters in addition to service charges under the mistaken impression that service charge is a part of taxes;

Whereas, it has also come to the notice of this Department that in some cases hotels/restaurants are restraining customers from entering the premises if they are not in prior agreement to pay the mandatory service charge;

Whereas, public interest has arisen due to a number of grievances reported against mandatory levy of service charges by the hotels and restaurants;

Now therefore, the Government considers it appropriate to clearly distinguish between the fair and unfair trade practices in respect of service charges, charged by the hotels/restaurants, and issues the following guidelines.

- (1) A component of service is inherent in provision of food and beverages ordered by a customer. Pricing of the product therefore is expected to cover both the goods and service components.
- (2) Placing of an order by a customer amounts to his/her agreement to pay the prices displayed on the menu card along with the applicable taxes. Charging for anything other than the afore-mentioned, without express consent of the customer, would amount to unfair trade practice as defined under the Act.
- (3) Tip or gratuity paid by a customer is towards hospitality received by him/her, beyond the basic minimum service already contracted between him/her and the hotel management. It is a separate transaction between the customer and the staff of the hotel or restaurant, which is entered into, at the customer's discretion.

- (4) The point of time when a customer decides to give a tip/gratuity is not when he/she enters the hotel/restaurant and also not when he/she places his/her order. It is only after completing the meal that the customer is in a position to assess quality of service, and decide whether or not to pay a tip/gratuity and if so, how much. Therefore, if a hotel/restaurant considers that entry of a customer to a hotel/restaurant amounts to his/her implied consent to pay a fixed amount of service charge, it is not correct. Further, any restriction of entry based on this amounts to a trade practice which imposes an unjustified cost on the customer by way of forcing him/her to pay service charge as condition precedent to placing order of food and beverages, and as such it falls under restrictive trade practice as defined under section 2(1)(nnn) of the Act.
- (5) In view of the above, the bill presented to the customer may clearly display that service charge is voluntary, and the service charge column of the bill may be left blank for the customer to fill up before making payment.
- (6) A customer is entitled to exercise his/her rights as a consumer, to be heard and redressed under provisions of the Act in case of unfair/restrictive trade practices, and can approach a Consumer Disputes Redressal Commission/Forum of appropriate jurisdiction.



(C.c. .C. Rout) out)

Deputy Secretary to the Government of India
