

**CENTRAL CONSUMER PROTECTION AUTHORITY**

**Krishi Bhawan, New Delhi - 110001**

**Case No. CCPA- 2/26/2025-CCPA**

In the matter of China Gate Restaurant Private Limited (Bora Bora) regarding alleged levying of service charge, violation of Consumer Rights and Unfair Trade Practices

**CORAM:**

Ms. Nidhi Khare, Chief Commissioner

Mr. Anupam Mishra, Commissioner

**Appearance:**

Advocate Iram Memon

Mr. Mahesh Salian, Chief Financial Officer of China Gate Restaurants Pvt. Ltd.

**Date: 29<sup>th</sup> December, 2025**

**ORDER**

1. The Central Consumer Protection Authority (hereinafter referred to as 'CCPA') has taken suo-moto cognizance of the grievance from Mr. Parv Yadav, Mumbai, Maharashtra registered at National Consumer Helpline 1915 (NCH) vide docket no. 7072401 dated 27.04.2025 against China Gate Restaurant Private Limited (Bora Bora) (hereinafter referred to as 'The Restaurant' opposite party). The grievance is regarding levying of service charge 10% extra over the order value and GST on it. When the consumer asked to remove the service charges of Rs. 624, the staff did not remove it and misbehaved with the consumer and subsequently, consumer was forced to pay it, which was against his will. Moreover, the restaurant charged GST on the service charge too. The Consumer in support of his allegations had attached the bill dated 19<sup>th</sup> April, 2025. A copy of the bill is reproduced below:

CHINA GATE RESTAURANT PVT LTD (Bora Bora) Juhu Tara Road, Juhu, Mumbai Opp. Hotel Ramada Park Road Juhu Tara Road, Juhu, Mumbai 400049 Email: bora@chinagate.com Ph: (022) 42631000 Mobile: 9107550720, 82 Tax Invoice		
Date: 19/04/25	Bill No.: 60	
T. No.: 25	W. No.: AMAR 01	
Customer: DEEPAK		
Particulars	Qty	Rate Amount
VEG RAKKA NODDLE	1	400 400
VEG MIXED RIBBON	1	425 425
CHINA RICE	1	340 340
CHICKEN CHICKEN	1	615 615
CHICKEN DEL COMBO	1	425 425
CHICKEN RICHMOND	1	465 465
VEG BALL MANDUCIAN	1	465 465
Sub Total:		3135.00
S.C 10%		313.50
GST 12%		376.20
Food Total:		3824.70
LONG ISLAND BEACH PARTY	2	675 1350
CHICKEN RICHMOND	1	575 575
THE BODY LADY	2	595 1190
Sub Total:		3115.00
S.C 10%		311.50
VAT 10%		342.60
Liquor Total:		3769.10
Total:		7586.40
TAXES:		2343.93
Total:		9930.33
GST IN No: 127AAAE13785E128		(1123 PM)
VAT IN No: 127AAAE13785E128		
RSCAT No: 11514000000124		
E.&D.F.		Thank You
		Visit Again

2. It is pertinent to mention that vide judgement dated 28<sup>th</sup> March, 2025 the Hon'ble High Court of Delhi in **National Restaurant Association of India & Ors. v. Union of India & Anr.** had held that: *"All restaurant establishments would have to adhere to the guidelines passed by the CCPA. If there is any violation of the same, action would be liable to be taken in accordance with law. CCPA is free to enforce its guidelines in accordance with law."* Further the Hon'ble High Court had upheld the applicability of the CCPA guidelines which is in the interest of consumers and declaring the levy of any mandatory service charge as contrary to law and violates the guidelines
3. The NCH grievance (docket no. 7072401 dated 27.04.2025) is indicative of such an unlawful levy of service charge which may be unfairly impacting a wider number of consumers as a class. The CCPA in exercise of power conferred under Section 18(2) and Section 19 of the Consumer Protection Act, 2019 (hereinafter referred to as 'the Act') conducted a preliminary inquiry to examine the veracity of the claim made against the aforementioned Restaurant.
4. In the preliminary inquiry, CCPA prima facie found, from the grievance registered on NCH, that the Restaurant had levied service charge on the bill despite the Hon'ble High Court of Delhi upholding the Guidelines to Prevent Unfair Trade Practices and Protection of Consumer Interest with regard to levy of service charge in hotels and restaurants issued by the Authority. It had also been found that the service charge amount was not refunded back to the consumer. Considering that the bill is software generated, the practice might be impacting a wider base of consumers visiting the restaurant thereby forming a class action as envisaged in section 10 of Consumer Protection Act 2019.
5. Based on the preliminary inquiry findings, CCPA directed the restaurant to furnish their response vide Notice dated 02<sup>nd</sup> May, 2025 for violation of the Act, 2019 and *Guidelines to Prevent Unfair Trade Practices and Protection of Consumer Interest with Regard to Levy of Service Charge in Hotels and Restaurants issued on 04.07.2022.*
6. In response to the said notice, the restaurant made the following submissions on 22<sup>nd</sup> May, 2025:
  - I. The Restaurant do charge 10% Service Charge on food & alcohol Orders; this charge is discretionary and is applied to the bill only after due communication and with the consent of the customer.

- II. It is further clarified that bill dated 19/04/2025 clearly bifurcates the charges for food and alcohol. On the total food order of Rs. 3,135, a 10% Service Charge of Rs. 313 was applied. On the total alcohol order of Rs. 3,115, a 10% Service Charge of Rs. 311 was applied. This bifurcation is for clarity and is not a duplication.
  - III. Further on food items & liquor items service charge is charged separately as alcoholic beverages have applicable Value Added Tax (VAT), which is a state-level tax, therefore restaurants serving both food and alcoholic beverages levy separate taxes with GST applying to food; however, VAT will be charged on alcoholic beverages.
  - IV. The service charge of 10% is discretionary and utilized towards the staff serving the consumers.
  - V. The charge was discretionary and applied with consent of consumer and as a gesture of goodwill, the Restaurant is willing to refund the Service Charge of Rs. 624 /-.
7. Upon examination of the response of the Restaurant, CCPA observed that the matter required detailed investigation as the restaurant failed to explain its non-compliance of the *Guidelines to Prevent Unfair Trade Practices and Protection of Consumer Interest with Regard to Levy of Service Charge in Hotels and Restaurants* issued by CCPA on 04<sup>th</sup> July, 2022. The CCPA was therefore satisfied that there exists a prima facie case of Unfair Trade Practice and violation of consumer rights under the Consumer Protection Act, 2019 along with the above mentioned guidelines which impacted the consumer as a class and which further needed a detailed investigation.
8. In light of the above observations, CCPA vide letter dated 09<sup>th</sup> June, 2025 directed Director General (Investigation) to conduct a detailed investigation.
9. The Director General (Investigation) submitted the Investigation Report dated 24<sup>th</sup> September, 2025 to the Authority vide email dated 30<sup>th</sup> October, 2025. The findings in the Investigation report are as under:
- a) It is observed that the Hon'ble Delhi High Court, in its judgment dated 28.03.2025 in **National Restaurant Association of India & Ors. v. Union of India & Anr.**, unequivocally held that:

*"While this Court holds that the mandatory collection of service charge is contrary to law and violates the guidelines, it is also of the opinion that if consumers wish to pay any voluntary Tip or services which they had*

*enjoyed, the same would obviously not be barred. The amount however, ought not to be added by default in the bill/invoice and should be left to the customer's discretion."*

Despite the said judgement, the Restaurant levied service charge thereby contravening the directions of the Hon'ble High Court. The grievance suggests that levy was not left to the consumer's discretion and was added by default.

- b) The Consumer, Mr. Parv Yadav, registered a grievance with the National Consumer Helpline (NCH) on 27.04.2025. The NCH issued an initial communication to the company dated 07.05.25, followed by reminders dated 14.05.2025 dated and 17.05.2025. Despite repeated outreach, the company failed to the resolve grievance or provide any substantive redressal, indicating procedural non-compliance and disregard for consumer grievance mechanisms under the Consumer Protection Act, 2019.
- c) It is observed from the consumer's bill dated 19.04.2025 that the Restaurant levied CGST and SGST on the service charge component. This practice is inconsistent with the prevailing tax regime and contravenes the CCPA Guidelines dated 04.07.2022, which prohibit the inclusion of service charge in the taxable base for GST computation.
- d) The Restaurant's email ID displayed on its public platform was found to be non-operational, thereby obstructing of consumer access and violating the principles of transparency and accessibility mandated under consumer protection Act, 2019.
- e) The Restaurant failed to join the investigation proceedings despite being given ample opportunities. Reminders dated 21<sup>st</sup> August, 2025 and 02<sup>nd</sup> September, 2025 were issued by the Investigating Authority seeking specific clarifications and documentation. Yet, the Restaurant did not furnish the required information, thereby stalling investigation and violating procedural obligations.
- f) Despite multiple opportunities and reminders issued by the Investigation Authority, the Restaurant failed to furnish any documentary evidence demonstrating that the refund was initiated or processed. The absence of such proof undermines the credibility of Restaurant's claim of prompt remedial action and reflects non-compliance with investigative directives.
- g) The Restaurant's conduct was found to be in breach of the following provisions of the CCPA Guidelines:

- Addition of service charge by default in the bill.
  - Failure to ensure that the charge is voluntary and at the consumer's discretion.
  - Lack of timely redressal of consumer grievance.
  - Imposition of service charge despite judicial and regulatory prohibitions.
- h) These actions constitute violation of consumer rights under Section 2(9), unfair contract under Section 2(46) and amounts to an Unfair Trade Practice under Section 2(47) of the Consumer Protection Act, 2019.
10. The Investigation Report submitted by DG (Investigation) was shared with the Restaurant vide letter dated 14<sup>th</sup> November, 2025 to furnish its comments and an opportunity of hearing was also provided to the Restaurant on 24<sup>th</sup> November, 2025 under Section 20 and 21 of the Act, 2019 before passing an order.
11. However, the restaurant failed to submit any comments on the investigation report within the stipulated time. The Restaurant did not appear on the scheduled date of hearing i.e., 24<sup>th</sup> November, 2025.
12. Subsequently, CCPA granted another opportunity of hearing to the restaurant scheduled on 08<sup>th</sup> December, 2025. On the said date, during the hearing the restaurant made the following submissions; through Advocate Iram Memon:
- i. In Mumbai they have the policy of discretionary service charges. Restaurant has already put in place some opt out mechanism on levy of service charge.
  - ii. Restaurant further submitted that the Hon'ble Delhi High Court passed the judgement in 28<sup>th</sup> March, 2025 and the incidence in dispute is just after 20 days of the judgement.
  - iii. Now the billing system of the restaurant has started incorporating name and mobile number of the consumer.
  - iv. The restaurant contends that they did not receive the DG Investigation's letter. The authority informed the restaurant that the DG Investigation attempted to make contact via the email address [info@cgrpl.com](mailto:info@cgrpl.com), which is available on the restaurant's website.
  - v. As a gesture of goodwill, the restaurant is happy to issue a refund. Once the consumer's details are shared, the refund will be credited by the end of the day.
  - vi. The restaurant stated that they will submit a detailed response to the investigation report before the next date of hearing i.e., 15<sup>th</sup> December, 2025.

13. As per the request of the restaurant, the consumer details were shared with them vide email dated 08<sup>th</sup> December, 2025 (same as date of hearing).
14. In its reply on 15<sup>th</sup> December, 2025, The Restaurant submitted that:
- I. The restaurant was already in compliance of the CCPA Guidelines dated 04.07.2022 wherein the service charge was not added automatically or by default in the bill and it was done only with the consent of the consumer.
  - II. While historically, a 10% service charge was levied, the same was on a discretionary and not compulsory basis, and expressly communicated to consumers as such.
  - III. Upon becoming aware of the judgement of the Hon'ble High Court dated 28.03.25, the management took a conscious decision to cease levy of service charge altogether.
  - IV. Accordingly, issued an internal memorandum dated 30.04.25 and the same was communicated to all internal departments.
  - V. The invoices now show computation of food and liquor totals with GST/VAT without any addition of service charge.
  - VI. Restaurant has refunded the full service charge amount of Rs. 624/- to the complainant, Mr. Parv Yadav on 08<sup>th</sup> December, 2025.
15. Based on the submissions of the Restaurant, a hearing was conducted on 15<sup>th</sup> December, 2025 wherein the counsel for the restaurant relied on the internal memorandum issued on 30.04.25 stating that the levy of service charge has been discontinued with immediate effect by the restaurant. The restaurant was levying service charge till 30<sup>th</sup> April, 2025 and failed to prove otherwise. The China Gate Restaurant Private Limited (Bora Bora) has three chains in Mumbai and is a member of AHAR (Association of Hotel And Restaurant).
16. During the hearing, the counsel for the restaurant further submitted that from 1<sup>st</sup> May, 2025, the new menu cards had been circulated in all the three outlets mentioning "We levy no service charge". CCPA directed the restaurant to submit the new menu card and a copy of the correspondence to consumer regarding his refund.
17. Vide email dated 18<sup>th</sup> December, 2025 Mr. Mahesh Salian, Chief Financial Officer of China Gate Restaurants Private Limited has submitted the following documents:
- a) Current menu cards in use at China Gate Restaurant Private Limited (Bora Bora) outlets in Mumbai

- b) Images of the placards prominently displayed at the outlets, near entrance and billing counters, which clearly and explicitly communicate that no service charge is levied by the establishment
- c) Screenshot of the whatsapp communication to the concerned consumer, Mr. Parv Yadav wherein the restaurant has apologised for the misunderstanding and informed him of the refund of Rs. 624/-, which has been processed.

18. Before delving into the specifics of the case, it is pertinent to examine the relevant legal framework that governs such transactions.

(a) As per the Consumer Rights enshrined under Section 2(9) (ii) and (v) of the Act states that the consumer rights includes- "the right to be informed about the quality, quantity, potency, purity, standard and price of goods, products or services, as the case may be, so as to protect the consumer against unfair trade practices" and "the right to seek redressal against unfair trade practices or restrictive trade practices or unscrupulous exploitation of consumers."

(b) From the bare reading of Section 2 (28) of the Act, 2019 it can clearly be concluded that when a restaurant displays a menu with specific prices, the consumer is duly informed about the cost of the food. However, if a mandatory service charge is added later, it conveys an express or implied representation that the restaurant, a service provider had deliberately concealed the actual price of the food and service thereof, constituting an unfair trade practice.

(c) Furthermore, Section- 2(47) of the Consumer Protection Act, 2019 defines "Unfair Trade Practice" which includes deceptive or unethical methods used to promote the sale of goods, use or supply of any goods or provision of services.

(d) CCPA had issued *Guidelines to Prevent Unfair Trade Practices and Protection of Consumer Interest with Regard to Levy of Service Charge in Hotels and Restaurants*, on 4<sup>th</sup> July, 2022. The extracts of which are given below:

*"3. 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.*

*4. It may be mentioned that a component of service is inherent in price of food and beverages offered by the restaurant or hotel. Pricing of the product thus 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 practice under the Act.

7. Therefore, to prevent unfair trade practices and protect consumer interest with regard to levying of service charge, the CCPA issues the following guidelines –

(i) No hotel or restaurant shall add service charge automatically or by default in the bill.

(ii) Service charge shall not be collected from consumers by any other name.

(iii) No hotel or restaurant shall force a consumer to pay service charge and shall clearly inform the consumer that service charge is voluntary, optional and at consumer's discretion.

(iv) No restriction on entry or provision of services based on collection of service charge shall be imposed on consumers.

(v) Service charge shall not be collected by adding it along with the food bill and levying GST on the total amount."

(e) The Hon'ble High Court of Delhi [**National Restaurant Association of India & Ors. Vs Union of India & Anr.**] passed the Judgment on 28<sup>th</sup> March, 2025 held in favor of CCPA wherein the Court held the following:

- i. Service charge or TIP as is colloquially referred, is a voluntary payment by the customer. It cannot be compulsory or mandatory. The practice undertaken by the restaurant establishments of collecting service charge that too on a mandatory basis, in a coercive manner, would be contrary to consumer interest and is violative of consumer rights.
- ii. The collection of service charge and use of different terminologies for the said charge is misleading and deceptive in nature. The same constitutes an unfair trade practice under Section 2(47) of the CPA, 2019.
- iii. The guidelines framed by the CCPA are thus valid and are in the interest of the consumers and the same are upheld.
- iv. While this Court holds that the mandatory collection of service charge is contrary to law and violates the guidelines, it is also of the opinion that if



*consumers wish to pay any voluntary Tip for services which they had enjoyed, the same would obviously not be barred. The amount however, ought not to be added by default in the bill/invoice and should be left to the customer's discretion.*

*v. All restaurant establishments would have to adhere to the guidelines passed by the CCPA. If there is any violation of the same, action would be liable to be taken in accordance with law. CCPA is free to enforce its guidelines in accordance with law.*

19. In the present case, it is clearly established from the bare examination of the relevant legal framework mentioned above that levying service charge by default in the bill constitutes violation of Consumer Rights under Section 2(9) (ii), (v) of the Act, 2019, misleading advertisement under Section 2 (28) (i) and (iii) of the Act, 2019 and unfair trade practice under Section 2(47) (i) of the Act, 2019. Also, levying service charge separately on food and alcohol bill apart from CGST and SGST puts consumers to disadvantage as envisaged in section 2(46)(vi) of the Act, 2019 (*unfair contract*).
20. Despite Hon'ble High Court of Delhi validating the applicability of the CCPA guidelines which is in the interest of consumers and declaring the levy of any service charge by default in a bill as contrary to law and violation of the guidelines, the Restaurant has levied service charge by default in the bill.
21. Though the Restaurant has mentioned in its reply dated 15<sup>th</sup> December, 2025 that they have issued an internal memorandum on 30<sup>th</sup> April, 2025 stating that the levy of service charge has been discontinued with immediate effect by the restaurant. However, from perusal of the bill attached with the grievance, it is apparent that the Restaurant had been using a software-based bill generation system whereby service charge included bills were automatically generated in the case of all the consumers from 28<sup>th</sup> March, 2025 to 30<sup>th</sup> April, 2025 which gives an implication that the restaurant must have collected a substantial amount of service charge in all its three outlets in Mumbai. Furthermore, the email address [info@cgrpl.com](mailto:info@cgrpl.com) listed in the 'Contact Us' section remained non-functional until the CCPA highlighted the issue during the hearing. The non-functional email address is in violation of the consumers right to seek redressal against unfair trade practice under section 2(9) (v) of Act.
22. In light of the observations above, after careful consideration of the investigation report of DG Investigation (CCPA) and submissions of the Restaurant, CCPA arrives at the findings:

- (a) It is important to note that the genesis of the service charge in the bill is the command embedded in the billing software, leading to default addition of service charge to every bill. Therefore it shall be erroneous to presume that the service charge was voluntary. This effectively negates the restaurants contention before CCPA that the service charge was voluntary. The facts and evidences in this case clearly established that the service charge was mandatorily levied on all consumers, in contravention of the CCPA guidelines and the judgement of Hon'ble High Court of Delhi.
- (b) It is further observed that the opposite party has not cooperated in the investigation process of DG Investigation (CCPA). Such non-compliances and non-cooperation in lawful proceedings was not desirable and lacks commitment towards consumer rights and interest.
- (c) In view of the above, the Restaurant is in violation of the following provisions of Consumer Protection Act 2019:
- (i) Consumer rights under section 2(9) (ii) of the Act, 2019.
  - (ii) Consumer rights under section 2(9) (v) of the Act, 2019.
  - (iii) Engaging in Unfair Trade Practice as defined in section 2(47) of Act, 2019 read with section 2(46) (vi) of Act, 2019;
  - (iv) Misleading advertisement under Section 2(28) (i) and (iii) of the Act, 2019.
  - (v) Guidelines to Prevent Unfair Trade Practices and Protection of Consumer Interest with Regard to Levy of Service Charge in Hotels and Restaurants, on 4<sup>th</sup> July, 2022.

23. Considering the facts and circumstances of the case; and the violations noted in the foregoing paras The CCPA is empowered under Section 20 and 21 of the Consumer Protection Act, 2019 to issue directions to discontinue or modify the advertisement and trade practices and if necessary, it may, by order, impose a penalty which may extend to ten lakh rupees and for every subsequent contravention may extend to fifty lakh rupees. Further, Section 21 (7) of the above Act, 2019 prescribes that following may be regarded while determining the penalty:

- i. the population and the area impacted or affected by such offence;
- ii. the frequency and duration of such offence;
- iii. the vulnerability of the class of persons likely to be adversely affected by such offence;
- iv. the gross revenue from the sales effected by virtue of such offence

24. It may be noted that China Gate Restaurants Private Limited has its presence since 1993 and has many brands such as China Gate, Tap-Resto bar, Bora Bora, Global Fusion, Caravan Serai, Red Box, Goh-jia-ting. Among these CCPA has taken action against its outlet Bora Bora which has three branches in Mumbai (*supra para 15*). Accordingly, it is evident that the restaurant has a substantial consumer reach and market presence, and any non-compliance of guidelines or levy of service charge by default on bill has the potential to affect a large number of consumers. Therefore, the conduct of the opposite party attracts the applicability of Section 21(7) of the Act, 2019.

25. In light of the above CCPA issues the following directions:

- (i) To take immediate steps to modify its software generated billing system by removing default addition of service charge or charge by any other name.
- (ii) Further in light of para 24 (*supra*), the restaurant China Gate Restaurant Private Limited (Bora Bora) is directed to pay a penalty of Rs. 50, 000/- for violation of Consumer Rights and Unfair Trade Practice.
- (iii) To ensure prompt and effective redressal of consumer grievances, the restaurant's email ID available on its public platform should be active and functional at all times as mandated under The Consumer Protection Act, 2019 and Consumer Protection (E-Commerce) Rules, 2020 framed thereunder.

The Restaurant shall submit a compliance report of the above-mentioned directions to the CCPA within 15 days from the receipt of this order.

  
.....  
Nidhi Khare  
Chief Commissioner

  
.....  
Anupam Mishra  
Commissioner