

CENTRAL CONSUMER PROTECTION AUTHORITY

Krishi Bhawan, New Delhi - 110001

Case No. CCPA-2/89/2026-CCPA

In the matter of: Flavors by Element3 Pvt. Ltd. regarding levying of service charge under the head “Staff Contribution”, violation of consumer rights and unfair trade practices.

CORAM:

Mrs. Nidhi Khare, Chief Commissioner

Mr. Anupam Mishra, Commissioner

Appearance:

Mrs. Rajini Krishnan, Founder and Director, Flavors by Element3 Pvt. Ltd.

Date: 14.10.2026

ORDER

1. The Central Consumer Protection Authority (CCPA) has taken cognizance of the complaint received through email dated 05.03.2026 against Flavors by Element3 Pvt. Ltd. (The Restaurant), having its establishment at 462, Shri Krishna Temple Road, Indira Nagar 1st Stage, Bengaluru - 560038. The complainant alleged that he had visited the Restaurant on 04.03.2026 and that the Restaurant had levied a service charge under the name “STAFF CONTRIBUTION” on a mandatory basis. An amount of Rs.93.25 on bill, which is equivalent to 5% of the bill value was added to the final bill and collected without obtaining prior consent of the consumer. The consumer, in support of his complaint, had attached the bill, which is annexed as **Annexure-1**.

2. It is pertinent to mention that vide judgement dated 28.03.2025 the Hon’ble High Court of Delhi in National Restaurant Association of India & Ors. v. Union of India & Anr. 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 complaint dated 05.03.2026 is indicative of an unlawful levy of service charge under the head “Staff Contribution”, 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 (the Act, 2019) 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 complaint, that the Restaurant had levied service charge under the head “Staff Contribution” in 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, 2022 issued by CCPA (hereinafter referred to as Guidelines, 2022). 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 the Consumer Protection Act, 2019.

5. Based on the preliminary inquiry findings, CCPA issued a Show Cause Notice dated 31.07.2026 to the Restaurant 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. The Restaurant was directed to refund the service charge collected from the consumer and to show cause as to why action should not be initiated against it for continued non-compliance of the Guidelines passed by CCPA, which have been upheld by the Hon’ble High Court of Delhi and under the Consumer Protection Act, 2019.

6. In response to the said notice, the Restaurant submitted its reply vide email dated 01.08.2026 stating as follows:

- i. The Restaurant does not enforce any customer to pay the 5% service charge; it is optional and the same is removed upon request of the customer;
- ii. The customer who had submitted the invoice had misrepresented facts, inasmuch as he did not pay the service tax and yet was claiming a refund; the invoice and proof of payment made by him were enclosed and it was urged that the consumer be penalised for the wrong refund claim;
- iii. It was stated that restaurants in Bengaluru generally levy a service fee of up to 10% and that the same is removed whenever the guest does not wish to pay;
- iv. The Restaurant placed reliance on the update dated 20.07.2022 issued by the National Restaurant Association of India (NRAI), a copy whereof was appended;
- v. The Restaurant furnished the details of the customer (Name: Mr. Kalrav; Phone: 9510226083) and stated that it is a Satvik certified restaurant and was willing to meet and share the details of the Restaurant.

7. Upon examination of the response of the Restaurant, CCPA observed that the matter required detailed investigation, as the Restaurant had sought to justify the levy of service charge under the head “Staff Contribution” on the basis of the NRAI update dated 20.07.2022, which was issued prior to the judgment of the Hon’ble High Court of Delhi dated 28.03.2025 and cannot override the binding judicial pronouncement upholding the Guidelines, 2022. The Guidelines, 2022 clearly provide that no hotel or restaurant shall add service charge automatically or by default in the bill and that no collection of service charge shall be done by any other name. It is also significant that in the aforesaid reply, the Restaurant referred to the impugned charge as “Service Tax”, stating that the consumer “has not paid the Service Tax and is claiming a refund”, even though the charge was described as “Staff Contribution” in the bill itself and no such statutory levy exists on restaurant bills. This indicates that even the Restaurant treated the charge as a statutory impost, thereby misleading consumers in the manner observed by the Hon’ble High Court of Delhi. CCPA was satisfied that there exists a prima facie case of Unfair Trade Practice and violation of consumer rights under the Act, 2019

along with the above-mentioned Guidelines of 2022 which impacted consumers as a class.

8. In light of the above observations, CCPA vide letter dated 07.08.2026 directed the Director General (Investigation) to conduct a detailed investigation.

9. The Director General (Investigation) submitted the Investigation Report dated 25.08.2026. The findings in the Investigation Report are as under:

- i. Deceptive Billing Practice: The Restaurant, vide Bill No. 56357 dated 04.03.2026, raised a bill showing a food subtotal of Rs.1,865.00, “STAFF CONTRIBUTION” at 5% amounting to Rs.93.25, CGST of Rs.46.63, SGST of Rs.46.63, round-off of Rs.0.49 and a total of Rs.2,052.00. The 5% “Staff Contribution” was included as a payable item without the consumer’s prior, express and voluntary consent. The bill neither identifies it as optional nor records the consumer’s agreement. By adding it automatically, the Restaurant required the consumer to identify and challenge the charge at the time of payment. The assertions of the Restaurant that the amount supports staff welfare, is removable on request and is disclosed on the menu do not establish informed and affirmative consent. The option to remove a charge after it has been added is not a voluntary opt-in and a general menu disclosure cannot replace a clear choice before the final bill is generated. This practice constitutes non-transparent and deceptive billing.
- ii. Unfair Trade Practice: The bill placed the 5% “STAFF CONTRIBUTION” of Rs.93.25 alongside food charges and statutory taxes, creating the impression that payment was obligatory. The claim of the Restaurant that customers may ask the staff to delete the amount shifts the burden onto the consumer to opt out of a pre-added charge; such an opt-out mechanism does not establish free, informed and express consent. Automatic inclusion of a staff contribution charge, followed by removal only upon objection, amounts to an unfair trade practice under Section 2(47) of the Consumer Protection Act, 2019, as it misleads consumers about the nature and necessity of the charge and restricts their ability to make an informed, voluntary choice.
- iii. Violation of Consumer Rights: Automatic addition of the 5% “Staff Contribution” affected the consumer’s right to receive accurate information

about the actual and voluntary components of the amount payable and increased the financial liability of the consumer. Subsequent removal after objection does not erase the deficiency; the violation occurred when the contribution was initially included as a payable component without the consumer's prior, free and informed consent. The practice therefore infringes the consumer's right to information and protection against unfair trade practices under the Consumer Protection Act, 2019.

10. The Investigation Report submitted by the Director General (Investigation) was shared with the Restaurant vide letter dated 01.09.2026, with a request to furnish its comments within 7 days and an opportunity of hearing was also provided to the Restaurant on 15.09.2026 at 04:00 PM under Section 20 and 21 of the Act, 2019 before passing an order.

11. Neither any written response/comments were received from the Restaurant within the stipulated time, nor did any authorised representative appear on behalf of the Restaurant during the hearing scheduled on 15.09.2026.

12. In the interest of natural justice, the CCPA afforded one final opportunity to the Restaurant vide letter dated 18.09.2026 and the matter was re-listed for hearing on 23.09.2026.

13. On 23.09.2026, Mrs. Rajini Krishnan, Founder and Director of the Restaurant, appeared before the CCPA and submitted as follows:

- i. That she had submitted all the documents called for, including the Certificate of Incorporation, the invoice containing the staff contribution and proof of payment; that the staff contribution was removed when the consumer declined to pay it, whereinafter the consumer paid a sum of Rs.1,958.00;
- ii. That the terminology of "staff contribution" is in standard practice among restaurants in Bengaluru, that the amount was distributed to the staff and that the staff were happy with the arrangement;
- iii. That the Restaurant had acted in accordance with the update issued by NRAI on 20.07.2022, pursuant where to the levy was voluntary and was removed whenever the customer did not wish to pay;

- iv. That the charge was embedded in the billing system on account of rush periods, such as Sundays, when it would not be feasible for the staff to inquire of each customer individually and revert;
- v. That subsequent to the communication from CCPA, the Restaurant had removed the staff contribution from its billing system with effect from 01.08.2026, by issuing an internal memo and directing its billing software provider (Pet Pooja) to remove the charge and that both its outlets at Indira Nagar and Whitefield no longer levy any service charge or staff contribution;
- vi. That the GST component on the staff contribution was being paid to the Government on a monthly basis and that with the removal of the charge, both the GST component and the 5% amount distributed to the staff had ceased;
- vii. That the Restaurant is ISO 9001 and ISO 22000 certified and is a Satvik certified restaurant and that it was open to inspection by a representative of the CCPA visiting its outlets as a customer;
- viii. That the consumer concerned had misrepresented the facts and requested that the consumer be penalised for such misrepresentation.

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

- i. As per the Consumer Rights enshrined under Section 2(9) (ii) and (v) of the Act, consumer rights include “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.”
- ii. 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.
- iii. 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.

- iv. 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 04.07.2022. 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.”

- v. The Hon'ble High Court of Delhi (National Restaurant Association of India & Ors. Vs Union of India & Anr.) passed the Judgment on 28.03.2025 held in favor of CCPA wherein the Court held the following:

- a. 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 violation of consumer rights.
- b. 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.
- c. The guidelines framed by the CCPA are thus valid and are in the interest of the consumers and the same are upheld.
- d. 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.
- e. 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.

15. In light of the above provisions and consideration of the investigation report of the Director General (Investigation), CCPA along with the submissions of the Restaurant, CCPA arrives at the following findings:

- i. It is important to note that the genesis of the staff contribution in the bill is the command embedded in the billing software, leading to default addition of the said charge to every bill. The explanation of the Restaurant that the charge was embedded in the billing system on account of rush periods, such as Sundays, when it would not be feasible for the staff to inquire of each customer individually, is itself an admission that the charge was added automatically and by default, rather than left to voluntary practice of tipping or the informed choice of the consumer. Therefore, it shall be erroneous to

presume that the staff contribution was voluntary. The facts and evidence in this case clearly establish that the charge was mandatorily levied by default on the bill dated 04.03.2026, which is subsequent to the judgment of the Hon'ble High Court of Delhi dated 28.03.2025, in contravention of the CCPA Guidelines, 2022 and the said judgment.

- ii. The charge was levied under the head "Staff Contribution", which is service charge collected by another name. The Hon'ble High Court of Delhi has specifically held that the collection of service charge and use of different terminologies for the said charge is misleading and deceptive in nature and constitutes an unfair trade practice under Section 2(47) of the CPA, 2019. The use of the terminology "Staff Contribution" alongside statutory levies such as CGST and SGST created the impression of a mandatory obligation.
- iii. It is further significant that throughout the course of the present proceedings in its reply dated 01.08.2026 as well as during the hearing the Restaurant repeatedly referred to the charge as 'service tax' even though no such statutory levy exists on restaurant bills and the charge was described as "Staff Contribution" in the bill itself. This itself illustrates the misleading and deceptive nature of levying service charge under varying terminologies, as observed by the Hon'ble High Court of Delhi and demonstrates how such charges are perceived by consumers as a statutory imposition akin to CGST or SGST.
- iv. The reliance placed by the Restaurant on the NRAI update dated 20.07.2022 is misplaced. The said update was issued in the context of an interim order of the Hon'ble High Court of Delhi and stands superseded by the judgment dated 28.03.2025, whereby the Guidelines, 2022 have been upheld and all restaurant establishments have been directed to adhere to the said Guidelines. The Restaurant's liability is established through a clear pattern of deliberate non-compliance with the Guidelines, 2022 issued by CCPA, which have been upheld by the Hon'ble High Court of Delhi and the Restaurant has demonstrated a blatant violation of both judicial and regulatory directives.
- v. As regards the specific instance of the complainant, it is noted that upon the consumer's objection, the staff contribution was removed and the consumer ultimately paid a sum of Rs.1,958.00, as reflected in the revised bill and proof of payment submitted by the Restaurant. The CCPA has taken note of the

same. However, the requirement cast upon the consumer to identify and object to a pre-added charge does not amount to free, informed and voluntary consent and subsequent removal upon objection does not cure the original deficiency in billing. The fact that the Restaurant itself removed the charge upon objection indicates that the charge was neither statutory nor essential to the transaction.

- vi. The Restaurant has submitted that it discontinued the levy of service charge with effect from 01.08.2026, i.e., subsequent to the issuance of the Show Cause Notice by the CCPA. While the same is a mitigating factor, it does not erase the violation which had already occurred.
- vii. The Restaurant's request that the consumer be penalised for misrepresentation has been noted and the same shall be examined separately by this Authority in accordance with law.
- viii. Hence, the Restaurant is in violation of the following provisions of the Consumer Protection Act, 2019:
 - a. Consumer rights under Section 2(9)(ii) of the Act, 2019.
 - b. Consumer rights under Section 2(9)(v) of the Act, 2019.
 - c. Engaging in Unfair Trade Practice as defined in Section 2(47) of the Act, 2019 read with Section 2(46)(vi) of the Act, 2019;
 - d. Misleading representation under Section 2(28)(i) and (iii) of the Act, 2019.
 - e. 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.

16. Considering the above findings 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 modify the advertisement or discontinue such advertisement and 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 the following may be regarded while determining the penalty:

- a. the population and the area impacted or affected by such offence;
- b. the frequency and duration of such offence;

- c. the vulnerability of the class of persons likely to be adversely affected by such offence;
- d. the gross revenue from the sales effected by virtue of such offence.

17. The Restaurant's bill in question was generated on 04.03.2026, i.e., subsequent to the above mentioned judgment of the Hon'ble High Court of Delhi dated 28.03.2025 upholding the Guidelines, 2022 and the Restaurant levied Service Charge under a different terminology. It is also pertinent to note that, as per the Restaurant's own submission, it discontinued the levy of the charge with effect from 01.08.2026, i.e., subsequent to the issuance of the Show Cause Notice by the CCPA. Therefore, the Restaurant continued the practice of adding Service Charge in the food menu by default/automatic for nearly 17 months after the Hon'ble Delhi High Court Judgement dated 28.03.2025. It may be noted that the Restaurant operates two outlets in Bengaluru (Population of Bengaluru is 1.47 Cr approx.) and the levy of service charge by default/automatic on software-generated bills has the potential to affect the consumers visiting the said outlets.

18. Furthermore, in the instant case, upon the objection of the consumer, the charge was removed prior to payment and the consumer ultimately paid Rs.1,958.00. Having due regard to the factors enumerated in Section 21(7) of the Act, 2019, including the number of outlets of the Restaurant, the conduct of the Restaurant in removing the charge upon objection, its discontinuation of the practice with effect from 01.08.2026, while at the same time taking a serious view of the continued default addition of service charge by another name subsequent to the judgment of the Hon'ble High Court of Delhi, the conduct of the Restaurant attracts the applicability of Section 21(7) of the Act, 2019. Therefore, the CCPA is of the opinion that it is necessary to impose penalty on the Restaurant in consumer interest.

19. In light of the above, CCPA issues the following directions:

- i. It is noted that in the instant case, upon the objection of the consumer, the staff contribution was removed from the bill prior to payment and the consumer paid a sum of Rs.1,958.00. Accordingly, no reimbursement is required in respect of the said consumer.

- ii. The Restaurant shall take immediate steps to modify its software-generated billing system by removing the default addition of service charge or charge by any other name and shall ensure that no service charge, staff contribution, or any similar charge is added automatically or by default in the bill at either of its outlets. Any tip or gratuity shall be left solely to the discretion of the consumer.
- iii. The Restaurant is further directed to pay a penalty of Rs. 10,000/- (Rupees Ten Thousand only).

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


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Nidhi Khare
Chief Commissioner


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Anupam Mishra
Commissioner

Annexure-1

