

District Consumer Disputes Redressal Commission-I (North District)

[Govt. of NCT of Delhi]

Ground Floor, Court Annexe -2 Building, Tis Hazari Court Complex, Delhi- 110054
Phone: 011-23969372; 011-23912675 Email: confo-nt-dl@nic.in

CONSUMER COMPLAINT NO.: DC/80/CC/422/2024

In the matter of:

Praveen Kumar Singh

S/o Brahma Dev Singh

Chamber No. 477, Civil Wing

Tis Hazari Courts, Delhi-110054

... Complainant

VERSUS

Bundl Technologies Pvt. Ltd.

Registered office at

No. 55 SY No. 8-14, Ground Floor,

I & J Block, Embassy Tech Village,

Outer Ring Road, Devarabisanahalli,

Bengaluru- 560103, Karnataka, India

... Opposite Party No. 1

Themis Barbeque House

Aggarwal Millennium Tower 1,

251, 2nd Floor, B, Netaji Subhash Place

Pandit Lekhram Sharma Marg,

Block C3, Keshav Puram, Tri Nagar,

New Delhi-110035

... Opposite Party No. 2



ORDER

21.09.2026

Divya Jyoti Jaipuriar, President

1. The present complaint has been filed under Section 35 of the Consumer Protection Act, 2019 by which the Complainant has alleged deficiency of service

and unfair trade practices adopted by M/s Bundl Technologies Pvt. Ltd. (OP-1 herein) and M/s Themis Barbeque House (OP-2 herein). The brief details of facts, as alleged by the Complainant in the Complaint in hand, are as under:

- i. The complainant booked a table for 07.04.2024 at Themis Barbecue House (OP-2), through the "Dineout" section of the Swiggy mobile application, which is owned and operated by OP-1 herein, which offered a discount on the final bill as an incentive for booking through the platform. The booking was made for 10 people via Complainant's own account while a second booking of 4 people was made through the account of wife of the Complainant on dates 06.04.2024 and 07.04.2024 respectively for the dineout at the OP-2 restaurant for the date 07.04.2024.
- ii. At the time of booking, Swiggy Dineout, i.e. the service offered by app of OP-2 showed the cost of a meal for two persons at Rs. 1,500/-, implying a cost of Rs. 750/- per person.
- iii. Upon conclusion of the dining experience, the bill actually raised by OP-2 reflected a cost of Rs. 1,050/- per vegetarian buffet meal and Rs. 1,100/- for one non-vegetarian buffet meal i.e. Rs. 300/- extra per person for the vegetarian meal and Rs. 350/- extra per person for the non-vegetarian meal.
- iv. The Complainant made a virtual chat complaint on the Swiggy app, to which he received no proper response and claims that it remained unsolved even till the date of filing this complaint.
- v. It is further highlighted by the complainant that since the booking for the table was split and billed across two separate accounts, two separate bills were generated. On scrutiny of the bills, it was found that one bill carried a service charge of 10% of the bill value of beverages ordered by Complainant.



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- vi. The Complainant requested OP-2 to remove service charges levied on beverages, stating that he was not required to pay service charge as per CCPA Guidelines vide order July 4, 2022. However, the restaurant denied stating that levying service charge was legal. The Complainant reluctantly paid for the service charge.
- vii. The Complainant also informed a police officer present near the premises of the restaurant about the wrongful high charges of the buffet, as well as the service charge levied. The police officer asked the manager of OP-2 to address the issue raised by the Complainant which was again rejected by the manager.

2. The complainant alleges that acts and omissions of the OPs amounts to deficiency in service and unfair trade practice within the meaning of Sections 2(11) and 2(47) of the Act, attributable jointly to OP1, as the e-commerce platform through which the price representation was made, and OP2, as the restaurant that represented such information through OP-1's platform and levied service charge illegally. The Complainant has filed this complaint thereafter and prayed for the following reliefs:

- a. Direct the OPs to jointly and severally pay Rs. 3,988/- for the extra amount charged over represented price along with interest of 18% p.a. accrued from date of payment.
- b. Direct the OPs to jointly and severally pay Rs. 254/- for the service charge levied illegally along with interest of 18% p.a. accrued from date of payment.
- c. Payment of Rs. 5,00,000/- by OPs jointly and severally for mental agony harassment and inconvenience caused to Complainant.
- d. Payment of Rs. 1,00,000/- as cost of litigation.
- e. Any other order that the Hon'ble Commission may deem fit under the circumstances of the case.



3. OP-1 entered appearance and filed its Reply through Written Statement, contending that Swiggy Dineout is simply an intermediary that facilitates transactions between customers and restaurants, and is not responsible for the details regarding any products or services communicated by the restaurants. OP-1 further stated that the price of "Rs. 1,500 for two" reflected on the Swiggy Dineout listing was merely an average figure/ estimate to indicate affordability of a restaurant and does not indicate actual exact pricing.
4. Further, OP-1 stated in its reply that the customer can access the detailed menu and exact pricing of the concerned restaurant after clicking on the restaurant before making the booking. They state that prices for weekend dinner buffet were clearly stated in the detailed menu. OP-1 also submitted that it is protected by the provisions of Section 79 of the Information Technology Act, 2000, which grants exemption from liability to an intermediary for any third-party information or data hosted or transmitted by it, provided the Intermediary did not initiate the transmission, select the receiver, or modify the information, and observed due diligence as prescribed.
5. For the reasons mentioned in their written statement, OP-1 claimed that the Complainant's grievance is only against the restaurant who have already been made party in the complaint and the complaint against OP-1 should be dismissed with regard to the same.
6. OP-2 was duly served but chose not to enter appearance nor file any Written Statement despite opportunity. OP-2 was accordingly proceeded against ex-parte vide our order dated 07/02/2025.
7. The Complainant filed evidence by the way of affidavit, reiterating the contents of his complaint. OP-1 also filed evidence by the way of affidavit reiterating the contents of its Reply by Written Statement. We have heard the parties during final arguments before reserving the order. There are three issues that we need to address while deciding this complaint. First issue is with respect



to alleged overcharging by the OP-2. Second issue is with respect to the charging of service charge by the OP-2. Third issues is with respect to the responsibility of OP-1 towards the Complainant and the liability of the OP-1 in this complaint, if any.

8. On the first issue, on review of the Swiggy Dineout listing at the time of booking, no indication whatsoever is discernible to alert a consumer that the "cost for two" figure is a mere estimate rather than a firm representation of price. Further, OP-1's own Terms & Conditions do not contain any clause, disclaimer, or notation describing the "cost for two" figure as approximate, indicative, or non-binding. A representation of price made to a consumer at the pre-booking stage, on the strength of which the consumer is induced to transact- here, to book through Swiggy Dineout in preference to walking in directly- creates a reasonable expectation that the actual billing will not differ materially from that representation. A variance of Rs. 300/- for vegetarian meal and Rs. 350/- for non-vegetarian meal, which is approximately 40-47% over the quoted price is a material difference.

9. At this stage, we would like to refer to Section 2(28) of the Consumer Protection Act, 2019 which defines "misleading advertisement", in relation to any product or service, as an advertisement which falsely describes such product or service, gives a false guarantee to or is likely to mislead consumers as to its nature, substance, quantity or quality, conveys a representation that would constitute an unfair trade practice if made directly by the manufacturer, seller, or service provider, or deliberately conceals material information. The "cost for two" figure displayed on the Swiggy Dineout listing falls within this definition as such listing is clearly displayed mischievously to mislead the Complainant as to the true price of the buffet. OP-1's own admission indicates that the menu was available with it at the time when the Complainant made the booking and it shows that accurate, itemised pricing for the weekend buffet was available to it at the



material time. Yet the lower figure continued to be displayed without correction or any prominent disclaimer that the prices are different on weekend. For such incorrect and misleading display, responsibility falls on both OPs- OP-2 being the owner of the advertisement and OP-1 being the platform where such misleading advertisement was displayed without being scrutinised.

10. At this stage, we would also like to refer to the Guidelines for Prevention of Misleading Advertisements and Endorsement for Misleading Advertisement, 2022 issued under the provisions of the Consumer Protection Act, 2019, which fixes the responsibility for prevention of misleading advertisement equally to the product manufacturer/ service provider advertising their product/ service and the advertiser. In the case in hand, OP-2 is the service provider which put its advertisement on OP-1's platform and the OP-1 is the advertiser. The said guidelines fixes responsibility on both and none of these OPs can skip from their respective responsibilities.

11. We would also like to rely on the Consumer Protection (E-commerce) Rules, 2020, which also fixes responsibility of e-commerce platforms in ensuring that the information displayed on its platform by the sellers are accurate, correct and corresponds directly with the actual good/ services so offered by the seller. In the case in hand, although the advertisement was put up by OP-2, it was also the responsibility of the OP-1 to ensure that such advertisement is true, correct, accurate and corresponds to what the OP-2 offers. The price difference that the Complainant has suffered because of inaccurate display of the price on the platform owned and operated by OP-1 is a classic example of failure on part of OP-1 in ensuring correctness of the advertisement.

12. Hence, this Commission holds is of the opinion that representation of the "cost for two" figure on the Swiggy Dineout platform, being materially at variance with the amount actually billed, and its continued display of that figure despite having access to accurate, itemised pricing, amounts to deficiency in



service and unfair trade practice within the meaning of Sections 2(11) and 2(47) of the Act for which both the OPs are equally responsible.

13. At this stage, we would also like to refer to the pleading of OP-1 that it enjoys protection under section 79 of the Information Technology Act. Such reliance on Section 79 by OP-2 is misconceived. The exemption under sub-section (1) is expressly conditional on OP-1 satisfying the requirements of sub-section (2), clause (c) of which mandates that the intermediary "observe due diligence while discharging his duties under this Act". OP-1 has placed nothing on record showing it maintains any mechanism to reconcile the prices listed under the "price for two" figure against actual billing. Further rule 5 of the Consumer Protection (E-commerce) Rules, 2020 also mandates that an e-market place has to comply with sub-section (2) and (3) of Section 79 of the Information Technology Act, 2000 and Information Technology (Intermediary Guidelines) Rules 2011. The OP-1 cannot escape from its responsibility merely by quoting section 79 of the Information Technology Act. It has to show conclusively that the OP-1 was performing due diligence in all respects as necessitated in the respective legislations and rules framed thereunder.

14. Section 2(47) of the Consumer Protection Act, 2019 defines "unfair trade practice" as a trade practice which, for the purpose of promoting the sale, use or supply of any goods or for the provision of any service, adopts any unfair method or unfair or deceptive practice. Two provisions within this definition are applicable as per the present facts.

- Under clause (1)(i), a statement "materially misleads the public concerning the price at which a product or like products or goods or services, have been or are, ordinarily sold or provided" constitutes an unfair trade practice

- Under clause (2), permitting the publication of an advertisement for the sale or supply of goods or services at a price that is not, in fact, intended



to be honoured at the point of sale constitutes a further species of unfair trade practice.

15. The Central Consumer Protection Authority (CCPA), by guidelines dated 04.07.2022, directed that no hotel or restaurant shall add service charge automatically or by default, that it cannot be collected under any other name, that it cannot be forced upon a consumer, that service or entry cannot be denied for refusal to pay it, and that it cannot be clubbed with the food bill for GST purposes. These guidelines were challenged before the Hon'ble Delhi High Court by the National Restaurant Association of India (NRAI) and the Federation of Hotel and Restaurant Associations of India (FHRAI) in W.P.(C) 10683/2022 and W.P.(C) 10867/2022 respectively. It is settled that the interim orders applicable to a transaction is the one in force on the date the cause of action arose (in this case- 07.04.2024) and not any subsequent order. This Commission has accordingly confined its examination to the orders of the Hon'ble High Court passed up to and including the order dated 11.03.2024, being the last order preceding the date of cause of action; any order passed thereafter has not been taken into consideration.

16. The relevant progression is as follows:

- By order dated 20.07.2022, the operative directions of the CCPA guidelines (paragraph 7) were stayed, but the stay itself was made conditional: restaurants were required to (a) prominently display on their menus that a service charge is levied in addition to the price and applicable taxes, and (b) not levy any service charge on takeaway orders.
- By order dated 05.09.2023, the Court passed further interim directions binding the following order: discontinuation of the term "Service Charge" in favour of "Staff Contribution," a cap of 10% of the bill (excluding GST), and a mandatory, bold menu notation that



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no further tip is required after payment of the Staff Contribution. Clause 10 of the aforesaid interim order states the following-

- (i) That the members of FHRAI, who are collecting the charges, shall with immediate effect cease the usage of the term 'Service Charge' and only use the terminology 'Staff Contribution' for the amount being charged as 'Service Charge' currently;
- (ii) The said amount being charged as 'Staff Contribution' by members of FHRAI shall not be more than 10% of the total bill amount excluding the GST component;
- (iii) In case of establishments mentioned in (i) above, the menu cards shall specify in bold that after the payment of 'Staff W.P.(C) 10683/2022 & 10867/2022 Page 7 of 7 Contribution', no further tip is necessary to be paid to the establishment/servers/restaurant staff.

17. As on date of disputed bill, i.e. 07.04.2024, the right of the restaurant to levy service charge was highly conditional with respect to the following terms- (a) up-front disclosure at the menu or point of ordering that a service charge would be added over and above the price and applicable taxes, (b) the term "staff contribution" must be adopted in place of "service charge". The menu card annexed by OP-1 itself in support of its own contention that accurate pricing was available to the Complainant- it is seen that the said menu makes no mention whatsoever of the imposition of any "Service Charge" or "Staff Contribution". OP-1's own annexure, filed to establish the adequacy of disclosure, thus affirmatively establishes the opposite: that no disclosure of the service charge existed on the menu at all, let alone the prominent, bold disclosure contemplated by the order dated 20.07.2022 and, where applicable, by clause 10(iii) of the order dated 05.09.2023.



18. Further, the bill annexed by the Complainant clearly reflects that the charge was described and levied under the term "Service Charge", and not "Staff Contribution". It demonstrates that, as on the date of the disputed bill, OP-2 had not adopted the terminology directed by the Hon'ble Delhi High Court's order dated 05.09.2023 to be used in place of "Service Charge".

19. However, in its final order and judgment dated 28.03.2025, Hon'ble Delhi High Court in the matter of National Restaurant Association of India vs Union of India [2025:DHC:2084] has held that service charge and tips are voluntary payments by consumers and cannot be made compulsory or mandatory on food bills by restaurants or hotels. Hon'ble Delhi High Court has also upheld the CCPA guidelines dated 20.07.2022.

20. For these reasons, the levy of "Service Charge" undisclosed on OP-2's own menu and levied under a nomenclature the Hon'ble High Court had already directed be discontinued, constitutes deficiency in service and unfair trade practice on the part of OP-2.

21. As a result, for the reasons explained above, the complaint is allowed and following order is passed:

- a. OP-2 shall refund to the Complainant a sum of Rs. 3,988/-, being the excess amount charged over the price represented on the Swiggy Dineout platform, together with interest @ 9% p.a. from 07.04.2024 within a period of four weeks from the date of receipt of this order.
- b. OP-2 shall refund to the Complainant a sum of Rs. 254/-, being the service charge illegally levied on the beverage bill, together with interest @ 9% p.a. from 07.04.2024 within a period of four weeks from the date of receipt of this order.
- c. OP-1 and OP-2 shall jointly and severally pay to the Complainant a sum of Rs. 1,00,000/- towards compensation for mental agony,

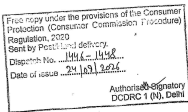


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harassment and inconvenience as well as towards litigation costs within a period of four weeks from the date of receipt of this order.

22. It is clarified that if the aforesaid amount is not paid by the OPs to the Complainant within the stipulated period directed above OPs shall be liable to pay interest @12% per annum on the entire awarded amount from the date of expiry of four weeks period from the date of delivery of this order.

23. Office is directed to supply copy of this order to the parties in accordance with rules. Order be also uploaded on the website. Thereafter, file be consigned to the record room.




Divya Jyoti Jaipuria, President


Ashwani Kumar Mehta, Member


Harpreet Kaur Charya, Member

