

# GST and Consumer Welfare: Unpacking The GST Impact on Indian Consumers

**Kanakshi Nema**

Assistant Professor, School of Law, UPES, Dehradun.

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### \*Correspondence:

nemakanakshi@gmail.com

Assistant Professor of  
Law, School of Law,  
UPES, Dehradun.

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## Abstract

Consumers are the backbone of any economy and bear the final cost of goods and services, including the taxes levied across the supply chain. Before the introduction of the Goods and Services Tax (GST) regime, various indirect taxes were levied at different stages of the supply chain, resulting in cascading taxes and inflating the final prices borne by consumers. The GST regime aims to streamline and simplify the indirect tax structure and reduce the burden on consumers. GST has subsumed multiple indirect taxes into a single framework, thereby offering various advantages such as reduced cascading effects, enhanced transparency, and improved efficiency in interstate commerce. It empowered consumers with a clearer understanding of the taxes levied on their purchases and facilitating informed decision-making. However, this revolutionized change in the indirect tax regime has necessitated a deeper understanding of its implications for consumer rights and protections. Although GST does not explicitly deal with consumer rights, its impact on consumer welfare is undeniable. Despite this, the Consumer Protection Act of 2019 addressed new issues with e-commerce and online transactions while reiterating consumer rights in the digital age. This paper explores the interplay between consumer rights, GST regulations, and emerging consumer protection mechanisms in India. It examines key facets such as anti-profiteering measures, e-commerce regulations, and the treatment of service charges under GST. The paper aims to highlight the role of GST in streamlining taxation and fostering consumer welfare while advocating for a transparent and equitable market environment. By upholding principles of fairness, transparency, and accountability, GST can catalyze inclusive growth and prosperity in the Indian economy, aligning with the vision of "Viksit Bharat 2047."

## INTRODUCTION

Consumers play a crucial role in any economy, acting as the terminus of the supply chain and bearing the final cost of goods and services. This final cost not only includes raw material, production, and supply costs but also the various indirect taxes levied at different stages of the supply chain. Consumers are not directly liable to pay indirect taxes to the government. Before the implementation of the Goods and Services Tax (GST) in India in 2017, consumers faced a complex and often burdensome tax system. This involved managing various centre and state-level indirect taxes, such as value-added tax (VAT),

service tax, and excise duty. The cascading taxes lead to higher costs being paid by the customers.

However, the introduction of GST has reformed the Indian tax regime by subsuming various indirect taxes into a single unified system, GST aimed to restructure the tax structure and reduce the overall tax burden on consumers. The following are key advantages of GST implementation from the consumer perspective:

### **Reduced Cascading Effect**

The cascading effect happens when a product is being taxed multiple times at different stages of production, leading to a higher final cost for consumers. GST eliminates this cascading effect by applying tax only on the value added at each stage, leading to comparatively lower final prices for consumers.

### **Increased Transparency**

The simplified structure of single uniform taxation across the country increases transparency and promotes a sense of fairness and accountability amongst consumers. GST eliminates various indirect and hidden taxes usually charged by the seller. The single tax invoice bifurcates the total tax paid on the product or service systematically, allowing consumers to understand the exact amount of tax they are paying.

### **Improved Efficiency**

The GST streamlined the interstate movement of goods, which has enhanced efficiency in the logistics sector, reduced transportation costs and delays, and lowered product prices for consumers. Further, GST facilitates healthy competition among manufacturers, eventually benefiting consumers.

### **Simplified Tax Structure**

The pre-GST tax system was complex and confusing for consumers. With GST, the tax structure has been simplified, making it easier for consumers to understand how taxes are applied to their purchases. This can help them make informed decisions and to negotiate better deals.

GST has transformed the way businesses operate, affecting consumer prices. This might have needed consumers to become more informed

about how GST affects their purchases. GST does not directly define the rights of consumers but has the potential to influence them. The core rights and responsibilities of consumers are defined by the Consumer Protection Act, which is not directly linked to the specific tax system. The “*Consumer Protection Act of 2019*” replaced the “*Consumer Protection Act of 1986*” to strengthen consumer protection mechanisms and address emerging concerns in the digital age, such as e-commerce and online transactions.

While Consumer law establishes the foundation for consumer rights in India, implementing GST in 2017 has created a dynamic interaction between consumers, businesses, and tax regulations. This chapter deals with the interlink between the rights of consumers protected under consumer laws and GST regulations in the Indian market. It focuses on how the implementation of GST has impacted various aspects of consumer protection, including anti-profiteering measures, e-commerce regulations, product returns, and the application of service charges.

## **MRP (Max Retail Price) Rules And Anti-Profiteering Measure**

MRP refers to the highest price a retailer can charge legally for a pre-packaged product in India. This price includes all applicable taxes, including GST and is printed on the packaging. It protects consumers from paying excessively high prices to retailers, mitigating unfair pricing practices. Retailers cannot charge more than the printed MRP according to the “*Consumer Goods (Mandatory Printing of Cost of Production and Maximum Retail Price) Act, 2006*”, however, they are free to offer discounts or sell the product below the MRP.

The CGST Act of 2017 provides the following-

**“Section 171. Anti-profiteering measure. - (1) Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.”**

The purpose of this provision is to make sure that the advantages of reduced tax rates or the availability of input tax credit (ITC) under GST are made available to consumers by suppliers. Suppliers cannot unfairly

retain the tax benefit and increase their profits at the expense of the consumer. Consequently, if the supplier fails to reduce the final price of supply made “by way of commensurate reduction in prices,” then it will amount to ‘profiteering’ and every customer has the right to receive the advantage of the endowed reduction in the cost (Kerala State Screening Committee on Anti Profiteering vs TTK Prestige Ltd, 2020). Further, the fiscal advantage has to be passed down separately for each product and the taxpayer cannot club different supplies to showcase the corresponding price reduction (Ankur Jain v. Kunj Lub Marketing Pvt. Ltd, 2018). However, the Act does not define “commensurate reduction” resulting in interpretational issues. Moreover, the establishment of authority and procedure thereof are provided under “Chapter XV: Anti-Profiteering” Rule 122 to 137 of CGST Rules, 2017.

The Central Government is empowered to constitute an authority or authorize an existing authority to investigate whether the receiver is receiving the ITC benefit or reduction through a suitable price decrease by the supplier (CGST Act, 2017). If in case, the Authority establishes that a GST-registered person has been engaged in profiteering practices i.e. gained any amount by not providing such benefit to the recipient of the supply, the person is under obligation to pay 10% of the amount so profited as penalty. However, if the person meets the obligation within 30 days from the date of passing of the order by the Authority, then that person is not entitled to pay the penalty amount (CGST Act, 2017).

The “National Anti-Profiteering Authority (NAA)” was established under the Rules, consisting of a chairman and four Technical Members (CGST Rules, 2017). The tenure of NAA was 4 years commencing on the day the Chairman took office. The authority can order for (CGST Rules, 2017)-

- reduction in prices;
- return the amount to the recipient along with interest or deposit the same to the Consumer Welfare Fund;
- imposition of penalty; and
- cancellation of registration under the Act.

The constitutional validity of anti-profiteering measures and the establishment of NAA were

challenged in various cases on the grounds that-

- Section 171 provides unguided discretion to NAA.
- Section 171 is violative of Article 19(1)(g) of the Constitution.
- NAA has an extensive scope of investigation.
- The methodology of NAA is arbitrary and not clear.

The Division Bench of the Supreme Court clubbed more than 50 such writ petitions and transferred them to the Delhi High Court (NAA v Hardcastle Restaurants Pvt. Ltd., 2020). The constitutional validity of Section 171, the Rules made therein and the establishment of NAA were upheld on the grounds of the beneficial nature of such mechanism, as this seeks to foster ‘consumer welfare’ (Reckitt Benckiser India Private Limited v. Union of India , 2024). The Court believed that these provisions are not mere price control mechanisms, but rather seek to achieve the objectives of the GST regime i.e. “to overcome the cascading effect of indirect taxes and to reduce the tax burden on the final consumer.” NAA is essentially a fact-finding authority charged with carrying out tasks that belong to domain experts because it must determine whether the suppliers have provided the advantage to the recipients through reduced prices as requisite of Section 171. However, the appeal against this judgment is pending before the Supreme Court (M/S Excel Rasayan Private Limited v. Union of India & Ors, 2024).

Additionally, the 45<sup>th</sup> GST Council meeting explored the possibility of transferring the responsibilities of the NAA to the Competition Commission of India (CCI). This Notification No. 23/2022-C.T. dated November 11, 2022, issued by the Ministry of Finance empowered the CCI to handle anti-profiteering investigations and adjudications w.e.f. December 1, 2022. This decision aims to leverage the existing expertise and infrastructure of the CCI for the efficient handling of these cases. The CCI might be the appropriate authority to handle anti-profiteering matters due to its experience promoting fair competition through antitrust enforcement and merger control (CCI, 2023). This decision aimed to leverage the existing expertise and infrastructure of the CCI for the efficient



handling of anti-profiteering cases. This could ultimately strengthen consumer protection by ensuring swifter and more impactful action against violations of anti-profiteering measures.

*“The CCI shall consist of a chairperson and not less than two and not more than six other members to be appointed by the central government”* (Competition Act, 2002) and a minimum of 3 members should be there to form a quorum (Competition Act, 2002). CCI currently has only 2 members, one acting as chairperson and another as the member (NAA v Hardcastle Restaurants Pvt. Ltd., 2020). The quorum remains insufficient even after more than a year since CCI received a charge for anti-profiteering under the GST Act, affecting the effective implementation of Section 171.

Another consideration is that the indirect tax rates were reduced due to the implementation of GST, consequently reducing the prices of the product. This raised concern about how to handle the labelling of MRP on pre-packaged commodities when the GST rate applicable to the product reduces. The Ministry of Consumer Affairs vide circular *“WM-10(31)/2017”* dated November 16, 2017, granted permission to manufacturers to attach the additional sticker, stamp or online printing for declaring the reduced MRP on the unsold pre-packaged item, which was labelled before July 1, 2017, under the Rule 6(3) of the *“Legal Metrology (Packaged Commodities) Rules, 2011”*. As per the circular, irrespective of the chosen method for affixing new prices, both the original MRP and the revised MRP should be visible on the packaging. The deadline to update the MRP on existing stock after GST implementation was notified to be December 31, 2017. This rule was further applicable to the unsold stock where MRP had reduced due to a reduction in the rate of GST. Hence, clear labelling ensures consumers are aware of the actual price payable, including the impact of change in any GST rate.

In the exceptional instances where MRP increases on account of GST implementation, manufacturers or importers must issue 2 advertisements in newspapers and inform *“Director of Legal Metrology and Controllers of Legal Metrology”* about the price revision. Price changes can be declared through sticker affixing, online printing, or stamping. The

condition to increase the revised prices is that the price increase cannot exceed the net increase in tax after factoring in the ITC available under GST, including deemed credit available to traders (CGST Act, 2017).

Moreover, Notification No. *06/2022-CT* dated July 13, 2022, imposed 5% GST to pre-packaged and labeled food items from July 18, 2022. Previously, only branded food grains (already taxed at 5%) were subject to GST, while unbranded pre-packaged and labelled food items were exempt. It aims to impose a uniform tax rate and eliminate exemptions to rationalize the tax. This change specifically targets unbranded food items that meet the definition of *“pre-packaged and labelled”* according to the Legal Metrology Act, 2009. While this can increase the final price for consumers of previously exempted categories of goods, this can also protect them from unjustified price hikes and unfair practices.

If the retailer does not provide the benefit of tax reduction to the consumer or charges GST over the MRP, a consumer can file a complaint against him through online portal of *“National Consumer Helpline (NCH)”* established under the *“Consumer Protection Act, 2019”* or if the goods are packaged then to the *“Legal Metrology Department”* under the *“Legal Metrology (Packaged Commodities) Rules, 2011.”* If the case is related to profiteering, then the complaint can be made to CCI under Section 171 (CGST Act, 2017).

The upshot of the above discussion highlights the role of MRP regulations and anti-profiteering measures under GST regulations in promoting consumer welfare in India. The CCI presently handles anti-profiteering investigations. While the constitutional validity of anti-profiteering provisions is still under appeal, consumers can file complaints with the CCI if they suspect profiteering practices. Further, consumers should be informed and vigilant about their rights regarding MRP and anti-profiteering measures. Clear labelling of MRP on pre-packaged commodities, including updated prices following tax changes, is crucial for consumer awareness and empowering them to make informed purchasing decisions. However, the ongoing legal battle regarding anti-profiteering measures emphasizes the need for clarity and transparency

in regulations and their implementation.

## E-Commerce and Tax Law Evolution

The commercial landscape is changing dramatically. *“E-commerce means buying or selling of goods or services including digital products over digital or electronic network”* (Consumer Protection Act, 2019). The online marketplace is gradually surpassing the conventional marketplace, which was formerly the leading platform for buying and selling. This shift, which is largely the result of globalization and digitization, has unquestionably brought in a new era of accessibility and ease for consumers globally. As cross-border transactions become increasingly common, consumers of the online marketplace are becoming more vulnerable and thereby encounter challenges while enforcing their rights.

Cross-border transactions must face complex tax regulations, creating a burden on e-commerce platforms. This could lead to increased operational costs, eventually passed on to consumers through higher product prices. Many times, in such cases, e-commerce platforms do not disclose clear pricing and hidden extra charges. Consumers might be surprised by unexpected tax charges at checkout, impacting their budget and trust in the transaction process. Further, the borderless nature of e-commerce makes it prone to tax avoidance, potentially creating an uneven playing field for businesses and impacting government revenue collection. Consumers might unknowingly purchase from businesses engaged in tax evasion, contributing to unfair competition and potentially funding harmful practices that could ultimately affect consumer rights and protections.

This vulnerability calls for an analysis of the existing legal frameworks, particularly the interplay between GST and consumer protection laws. The *“Consumer Protection Act, 2019”* and its accompanying *“Consumer Protection (E-Commerce) Rules, 2020”* framed by the Central Government form the legal backbone for protecting consumer rights in the online marketplace (Consumer Protection Act, 2019). The GST regime also plays a complementary role by promoting transparency, fair competition, and a more efficient system for resolving consumer concerns.

## Evolution of Tax Law to Accommodate E-commerce in India

Before the implementation of GST, a combination of Value Added Tax (VAT) and service tax, had several limitations for e-commerce. VAT is applied to goods, while service tax is applied to services like online marketplaces. The businesses which were providing both goods and services started facing challenges. Indirect taxation often relied on the concept of *“point of sale,”* determined by the physical location of the supplier. This became a limitation for online transactions across borders.

GST seeks to eliminate these issues in the digital era by introducing consistency and reducing the burden of multiple tax registrations and compliances for e-commerce businesses. The CGST Act defines e-commerce as *“the supply of goods or services or both, including digital products over digital or electronic network.”* (CGST Act, 2017) Any person who *“owns, runs, or manages a digital or electronic business or platform”* for e-commerce is an *“e-commerce operator”* (ECO) and need to get registered regardless of their turnover (CGST Act, 2017).

A wide variety of business models are included in the dynamic e-commerce market. Two of them are:

- Marketplace based model
- Inventory-based model

Marketplace e-commerce entities (Consumer Protection (E-Commerce) Rules, 2020) function as platforms for transactions, facilitating connections between buyers and sellers without directly owning the inventory themselves. These platforms provide an information technology infrastructure that allows sellers to list their products and connect with consumers. The most common examples are Amazon, Myntra, and Flipkart.

Inventory e-commerce entities (Consumer Protection (E-Commerce) Rules, 2020) are characterized by the ownership of inventory by the e-commerce entity. This model refers to e-commerce businesses that purchase and hold the physical stock (inventory) of the goods or services they sell. Examples of this model can be single-brand retailers operating solely online or multi-channel single-brand retailers with both





online and physical stores selling the same brand's products. These businesses can either: (i) operate their e-commerce platforms and transact directly with customers through their digital or electronic network; or (ii) sell through online marketplaces, where they list their products and connect with potential customers facilitated by the platform.

Both these entities are covered under the definition of ECO under the CGST Act. Therefore, all e-commerce entities, regardless of their business model, are classified as ECOs and are subject to the provisions of the GST Act applicable to them.

The ECO needs to collect tax at source (TCS) at the rate of 1% on the net value of taxable supplies, only when such an operator collects the consideration for such supplies (CGST Act, 2017). ECO is also required to pay GST in case of specified services. This mechanism seeks to ensure accountability and tax collection efficiency. It ensures a clear display of the GST in the final price, enhancing transparency for consumers and creating a fairer competitive landscape for online businesses. It further recognizes online marketplaces as facilitators and levies tax on the final sale value, simplifying the process for sellers. However, presently suppliers using ECO for supplies cannot avail composition scheme.

Unlike brick-and-mortar marketplace, consumers do not physically check the goods before making a purchase. Therefore, it is very common for consumers to buy a product and if it does not match their expectations, they return it. Consumers returning purchased goods in e-commerce transactions can impact the tax liability of the seller. This raises the question that how tax imposed upon these product returns are adjusted. Under the GST regime, e-commerce companies are required to collect tax only on the 'net value' of taxable supplies. This means the value of any returned goods is adjusted and deducted from the aggregate value of taxable supplies (CGST Act, 2017). Hence, consumers receive a refund for the entire GST paid initially, promoting fairness and transparency in the refund process. It further reduces administrative burdens for suppliers and streamlines the refund process for consumers.

This mechanism serves benefit to the consumers by ensuring that consumers are not charged GST on products they ultimately return, promoting

fairness and transparency, and to the businesses by levying GST on the final sale price they receive, preventing them from paying tax on revenue that has not been realized. However, refunds received by the consumers might be delayed due to processing time associated with claiming input tax credit (ITC) by ECOs on the returned goods from tax authorities.

Furthermore, GST plays a crucial role in ensuring a clear display of taxes for consumers in the e-commerce sector. The regulations mandate e-commerce platforms and sellers to display the GST component within the final price of a product or service. This eliminates hidden taxes and ensures that consumers are aware of the exact amount payable along with systematic bifurcation of charges, fostering transparency in pricing. The tax invoice received by the consumer upon purchase also clearly mentions the product/service details, its price, and the breakup of GST. Infact few e-commerce platforms provide a breakdown of the GST amount by themselves, while not mandatory. Such tax invoices can serve as evidence of purchases along with taxes paid thereon, facilitating in case of disputes or returns.

Hence, GST on e-commerce has significantly impacted both consumer rights and responsibilities. It has established transparency in pricing and empowers consumers to verify tax charges and potentially identify any discrepancies. A uniform tax structure across India creates a more level playing field for online and offline businesses, consequently leading to better pricing and wider choices for consumers. It is the responsibility of consumers to be vigilant and compare displayed prices with the final price inclusive of GST at the checkout to identify discrepancies. Additionally, consumers have the right to request clarification on tax components, if not displayed. However, if a proper response is not received, the complaint can be filed for suspected misleading pricing practices.

## **Safeguarding Consumers in the E-commerce Era**

The surge in e-commerce has brought immense convenience and accessibility to consumers but poses a risk to consumers. The Consumer Protection Act empowers the Central Government to take measures to prevent "unfair trade practices" in e-commerce and

thereby protect the interests and rights of consumers (Consumer Protection Act, 2019). The Central Government is empowered to lay down rules for the same (Consumer Protection Act, 2019), accordingly notified "the Consumer Protection (E-Commerce) Rules, 2020" on July 23, 2020. These rules provide a more detailed framework for e-commerce transactions. It creates an obligation upon the e-commerce entities, sellers on the marketplace, and inventory e-commerce entities to disclose product/service information, pricing, delivery details, refunds and grievance redressal mechanisms. It establishes a requirement for e-commerce platforms to appoint a grievance officer to acknowledge the receipt of the consumer complaint within 48 hours and to redress it within 1-month (Consumer Protection (E-Commerce) Rules, 2020).

The regulation establishes liability against marketplace platforms for misleading advertisements and non-compliance with rules by sellers on their platforms. This encourages platforms to put in place more stringent screening processes and guarantee ethical practices by businesses operating through them. The rules also mandate e-commerce entities to disclose their return and exchange policy, including the timelines and procedures for returning or exchanging products (Consumer Protection (E-Commerce) Rules, 2020). This ensures awareness among consumers about the available rights and alternatives in case of dissatisfaction with the purchase.

The rules seek to empower consumers by ensuring access to clear information, fostering their rights, and establishing efficient grievance redressal mechanisms. It also aims to establish a fairer marketplace to promote fair competition among businesses by discouraging deceptive practices and ensuring a level playing field.

## **The Interplay of GST and E-commerce Rules**

While both the E-commerce Rules, 2020 and the GST Act, 2017 focus on separate aspects of e-commerce, seek to achieve the following common objectives:

### ***Enhanced Transparency***

The E-commerce Rules require clear information on the invoice, including product description, price,

and any applicable discounts. Whereas the GST regulations require the invoice to explicitly display the tax rate and amount, allowing consumers to understand the final payable price and the tax levied. Therefore, both regulations promote transparency by mandating the issuance of tax invoices.

### ***Streamlined Return Processes, Fairer Pricing and Refunds***

The E-commerce Rules create an obligation upon the e-commerce businesses to have clear return and exchange policies, including timelines and procedures, and to disclose information related to pricing and refunds. Whereas the GST regulation lays down a clear provision for a refund of the amount initially paid including the taxes paid, to avoid unnecessary burden on consumers, when the return of the product is made. Hence, both regulations ensure that the consumers are aware of the exact cost upfront to avoid misleading pricing practices.

### ***Marketplace Platform Responsibilities***

The E-commerce Rules lays down the responsibilities of marketplace platforms including the display of accurate information, facilitating grievance redressal, and adhering to return policies. While marketplaces are not directly responsible for collecting GST, they might need to facilitate GST compliance by sellers in specific situations. This could involve collecting and depositing GST for certain transactions or sharing relevant seller information with tax authorities.

All these objectives contribute to empowering consumers by fostering an e-commerce environment that is more transparent, fairer, and more accountable. By working together, these regulations contribute to creating a more secure and trustworthy online shopping experience for consumers. A safer and more transparent online shopping environment fosters trust and encourages consumers to participate actively in the e-commerce ecosystem.

## **Service Charges and Consumer Protection in The age Of GST**

Selling a product is not just limited to the act of merely giving the product to the buyer, rather it goes beyond that. It involves additional efforts in the form



of services to enhance the customer's experience. It can include anything from providing helpful information and personalized recommendations to offering post-sale support. Often an additional fee is levied by businesses for services rendered beyond the cost of the product or primary service, typically referred to as 'service charges.'

The very purpose of imposing it is to compensate the service provider for the additional labor and resources invested in enhancing the customer's experience, like waiters attending the tables or travel agents booking tours. Service fees are most frequently seen in terms of travel and tourism, hospitality (restaurants, hotels), and even financial services (account maintenance fees) entities. They are separate from taxes, collected by the entities at their discretion and not by individual service providers (like waiters or travel agents).

However, the concept of service charge is generally confused with the service tax (now subsumed under GST), leading to misunderstandings. The two concepts are fundamentally different:

- Service charge is an optional fee added to the bill by the business, whereas service tax is a mandatory tax levied by the government on various services.
- The purpose of a service charge is to compensate the business for additional service-related costs, while a service tax seeks to generate revenue for the government.
- Both are collected by the business from consumers, while the service charge is retained by businesses only, whereas the latter is remitted to the government.
- The amount of service charge is decided by the businesses whereas the service tax is imposed at a fixed rate decided by the government.
- Services charge is an optional fee, and consumers can refuse to pay it which is not possible in the case of service tax.

Consumers need to understand the distinction between service charges and GST. It empowers consumers to make informed decisions about accepting or declining service charges and ensures businesses operate within the legal framework. However, it is contended that service charges are

imposed to provide better services to consumers, and it becomes necessary to compensate businesses for additional service-related costs.

The "Ministry of Consumer Affairs, Food & Public Distribution" issued a notification (Ministry of Consumer Affairs, Food & Public Distribution, 2014) dated December 14, 2016, to address concerns about service charges levied by hotels and restaurants at the rate varying between 5 to 20% instead of tips. The notification highlighted two key issues:

### **1. Forced Payment**

Consumers are obligated to pay service charges regardless of the service quality.

### **2. Impermissible Taxation**

Service tax is being applied not only to the bill amount but also to the collected service charge.

The Ministry deemed these practices 'unfair trade practices' under the "Consumer Protection Act of 1986." The notification emphasized the rights of consumers to file complaints against such violations with the appropriate consumer forums. Further, the notification seeks to direct the State Government to sensitize entities to comply with the provisions of the Act of 1986 and even to the hotel/restaurant by displaying at the appropriate places that the "*service charges are discretionary/voluntary, and a consumer dissatisfied with the services can have it waived off.*"

This clarification aims to protect consumers from unfair charges and ensure transparent pricing practices within the hospitality industry.

After the enactment of the Consumer Protection Act of 2019, the 'Central Consumer Protection Authority (CCPA)' is empowered to make guidelines to protect consumers from unfair trade practices, misleading advertisements and governing matters about consumer rights (Consumer Protection Act, 2019). The CCPA established "Guidelines to Prevent Unfair Trade Practices and Protection Consumer Interest about Levy of Service Charge in Hotels and Restaurants" on July 4, 2022, under Section 18(2)(1) of the Consumer Protection Act. These guidelines were issued in response to the growing number of consumer complaints registered on the National Consumer Helpline against restaurants and hotels highlighting the practice of adding service charges by default in the bills, without informing consumers



that this charge is optional and payable at their discretion. Additionally, service charges were often being levied in addition to the total price of food items and applicable taxes, often disguised under misleading names like “convenience fee” or simply included in the bill without clear explanation.

The 2022 guideline reiterated that:

- It is against the consumer protection law for hotels and restaurants to add a service charge to the bill automatically or by default. This means consumers are not obligated to pay any service charge.
- Businesses must inform customers that service charges are voluntary and optional. This information should be mentioned on the bill or menu.
- Hotels and restaurants cannot deny entry or service to customers based on their decision to pay or not pay a service charge.
- Any tips, tokens, or donations are considered separate transactions between the hotel staff and the consumer.

The guidelines further provide the redressal mechanisms as follows:

- If a hotel or restaurant imposes a service fee, consumers have the option to request the removal of this charge from their bill and if not done so, they can file a complaint with the NCH via the NCH mobile app or by dialing 1915.
- For quick and effective resolution, complaints about “unfair trade practices” can also be electronically submitted to the Consumer Commission at ‘edaakhil.nic.in.’

It is important to note that service charges are separate from the bill amount. Therefore, hotels and restaurants cannot add service charges to the bill and then levy GST on the total sum. GST is not levied on the amount paid instead of the service charge.

The legality of the guidelines was challenged before the Delhi High Court because service charges have been a long-standing practice in the industry and are also not covered under GST (National Restaurant Association v. Union of India & Anr. 2023). The GST framework is broad to cover service charges, as its fee levied over “services” and shouldn’t be banned. Businesses further contended

that customers could choose to pay the optional service charge (CGST Act, 2017). To eliminate the confusion and controversies, the Delhi High Court suggested to the “Federation of Hotel and Restaurant Associations of India (FHRAI)” to use the term “staff contribution” in place of “service charge.” The court stipulated that the amount instead of “staff contribution” cannot exceed 10% of the total bill amount, excluding GST. This cap seeks to address concerns regarding arbitrary or excessive service charges levied by businesses. However, this interim order applies specifically to FHRAI members and does not have wider implications at this stage.

The key takeaway is that service charges are optional and cannot be forced upon consumers. Restaurants are obligated to be transparent by clearly informing customers about the nature and purpose of these changes. Additionally, service charges are separate from the bill amount, and levying GST on them is illegal.

Despite the guidelines laid down by the ministry concerned, consumer awareness remains crucial. Consumers should remain aware of their rights and should be vigilant while checking their bills. If restaurants violate these guidelines by including service charges or levying GST on them, consumers can file complaints through the National Consumer Helpline or consumer forums. Ultimately, a balanced approach that protects consumer rights while acknowledging the needs of industry is essential for ensuring fairness and transparency in this area.

## CONCLUSION

The implementation of the GST in India has brought about significant changes to the taxation landscape, particularly concerning consumer welfare and protection. This chapter examines various aspects of GST implications and consumer fairness in India, focusing on key areas such as the cascading effect, anti-profiteering measures, e-commerce regulations, and service charges.

By subsuming multiple indirect taxes into a unified system, GST has eliminated the cascading effect, streamlined the interstate movement of goods, and simplified the tax structure for both businesses and consumers. Moreover, anti-



profiteering measures have been introduced to make sure that consumers receive the advantages of lower tax rates or input tax credits, thereby preventing unjust enrichment by businesses and fostering consumer rights.

When it comes to e-commerce, GST has been essential in addressing tax issues raised by online transactions, encouraging price transparency, and simplifying return procedures. Tax regulations have evolved to support e-commerce, which has made tax collection more effective while maintaining accountability and fairness in the online marketplace.

In addition, the issue of service charges has been explored considering the GST's consumer protection provisions. While companies may charge for services to offset extra costs associated with providing services, it is crucial to guarantee transparency and consumer choice. The protection of consumer rights, the clarification of the voluntary character of service charges, and the establishment of grievance redressal mechanisms are the result of government initiatives and directives.

The upshot of the above discussion is that it is still essential to prioritize consumer awareness while managing the intricacies of GST implications and consumer fairness. A transparent and equitable market must be fostered by educating customers about their rights and options for grievance redressal. Finding a balance between industrial practices and consumer protection requires cooperation from enterprises, consumers, and regulatory agencies.

Ensuring equitable access to goods and services for all citizens is dependent upon the effective implementation of consumer protection measures and GST laws as India continues its journey towards its vision of "Viksit Bharat 2047." By upholding principles of fairness, transparency, and accountability, GST can catalyze inclusive growth and prosperity of the Indian economy.

## REFERENCES

Ankur Jain v. Kunj Lub Marketing Pvt. Ltd., Case No. 10/2018, National Anti-Profiteering Authority, judgment dated

8 October 2018.

- Competition Commission of India. (2023). About NAA. Retrieved from <https://www.naa.gov.in/page.php?id=about-naa>
- Kerala State Screening Committee on Anti Profiteering v. TTK Prestige Ltd., Case No. 75/2020, National Anti-Profiteering Authority, judgment dated 18 November 2020.
- M/S Excel Rasayan Private Limited v. Union of India & Ors., Special Leave to Appeal (C) No(s). 3112/2024 (India).
- Ministry of Consumer Affairs, Food & Public Distribution. (2014). Service Tax. Retrieved from <https://consumeraffairs.nic.in/sites/default/files/file-uploads/latestnews/ServiceTax.PDF>.
- National Anti-Profiteering Authority v. Hardcastle Restaurants Pvt. Ltd., (2020), 36 GSTLJ 103 (SC).
- National Anti-Profiteering Authority v. Hardcastle Restaurants Pvt. Ltd., (2020), 36 GSTLJ 103 (SC).
- National Restaurant Association v. Union of India & Anr., 2023 LiveLaw (Del) 801 (Delhi High Court).
- Reckitt Benckiser India Private Limited v. Union of India, 2024-VIL-84-DEL (Delhi High Court).
- The Central Goods and Services Tax Act, 2017, § 140(3) (India).
- The Central Goods and Services Tax Act, 2017, § 15(1)(c) (India).
- The Central Goods and Services Tax Act, 2017, § 171(2) (India).
- The Central Goods and Services Tax Act, 2017, § 171(3A) (India).
- The Central Goods and Services Tax Act, 2017, § 171(3A) (India).
- The Central Goods and Services Tax Act, 2017, § 2(44) (India).
- The Central Goods and Services Tax Act, 2017, § 2(45) (India).
- The Central Goods and Services Tax Act, 2017, § 24(x) (India).
- The Central Goods and Services Tax Act, 2017, § 52(1) (India).
- The Central Goods and Services Tax Rules, 2017, Rule 122 (India).
- The Central Goods and Services Tax Rules, 2017, Rule 127 (India).
- The Competition Act, 2002, § 22 (India).
- The Competition Act, 2002, § 8 (India).
- The Consumer Protection (E-Commerce) Rules, 2020, Rule 3(1)(f) (India).
- The Consumer Protection (E-Commerce) Rules, 2020, Rule 3(1)(g) (India).
- The Consumer Protection (E-Commerce) Rules, 2020, Rule 4(5) (India).
- The Consumer Protection (E-Commerce) Rules, 2020, Rule 6(5)(g) (India).
- The Consumer Protection Act, 2019, § 10(1) (India).
- The Consumer Protection Act, 2019, § 101(2)(zg) (India).
- The Consumer Protection Act, 2019, § 101(2)(zg) (India).
- The Consumer Protection Act, 2019, § 2(16) (India).
- The Consumer Protection Act, 2019, § 94 (India).