

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE BENCHES : "B", BANGALORE**

**BEFORE SHRI B.R.BASKARAN, ACCOUNTANT MEMBER  
AND**

**SMT BEENA PILLAI, JUDICIAL MEMBER**

**ITA No.2896(Bang)/2017  
(Assessment Year : 2010-11)**

M/s Hyagreeva Hotels & Resorts Pvt.Ltd.,  
No.10/6, Lavelle Road,  
Bangalore -560 001  
PAN No.AAACH7551A

Appellant

The Asst. Commissioner of Income tax,  
Circle-3(1)(2),  
Bangalore

Respondent

**Appellant by : Shri Deepesh Wagle, CA  
Revenue by : Sri R.N.Siddappaji, Addl.CIT**

**Date of hearing : 09-07--2019**

**Date of pronouncement :**

**ORDER**

**PER SMT BEENA PILLAI, JUDICIAL MEMBER**

Present appeal has been filed by assessee against order dated 22/11/2017 passed by Ld.CIT(A)-3, Bengaluru for assessment year 2010-11 on following grounds of appeal:

1. *The order of the learned Assessing Officer in so far as it is against the appellant, is opposed to law, equity, weight of evidence, probabilities, facts and circumstances of the case.*

2. *The Assessing Officer is not justified in 'opening the file of the assessee u/s 148 beyond a period of four years where an assessment under sub-section (3) of section 143 has been made for the relevant assessment year.*

3. *The Learned Assessing Officer is not justified in making a disallowance of Rs 1,08,30,193/- u/s 36(1)(iii) of the Income Tax Act, 1961 under the facts and in the circumstances of the Appellant's case.*

4. *The Assessing Officer has not considered the valid explanation and case laws*

- *given by your Appellant in this regard.*

*It is respectfully submitted that we may be permitted to add, delete and / or put forward any other grounds and fact of appeal and other related points at the time of hearing.*

3. It has been submitted that assessee neither appeared nor filed any details/submissions before Ld.CIT (A) despite notices being issued.

3.1 Ld. CIT (A) therefore decided the issue based upon the observations of Ld. AO.

4. Assessee is now submitting before us that and opportunity may be granted to represent its case before Ld.CIT (A).

4.1 Ld.Sr.DR objected to the same and submitted that despite sufficient opportunity, assessee has failed to appear before Ld. CIT (A) to defend the additions made by Ld.AO. It has been submitted that assessee do not deserves an opportunity of being heard for the 2<sup>nd</sup> time under such circumstances.

5. We have perused submissions advanced by both sides in the light of the records placed before us.

5.1 Ld. AR admitted to the fact that assessee failed to appear before Ld. CIT (A) to represent its case. However the right of being heard cannot be denied to assessee. We are therefore of considered opinion to set aside the issue back to Ld. CIT (A) subject to cost of Rs. 5000/-payable by assessee. Assessee is directed to pay the cost to Karnataka Chief Minister's Relief Fund. Upon filing the proof of cost having deposited in along with affidavit, the ld.CIT (A) is directed to issue notice of hearing to assessee. Assessee shall then file all requisite details in support of its claim which shall be verified by Ld. CIT (A) in accordance with law and decide the issue on merits by passing the speaking order. With the aforestated direction, we set aside appeal back to ld. CIT(A).

**Accordingly ground raised by assessee stands allowed for statistical purposes.**

**5. In the result appeal filed by assessee stands allowed for statistical purposes.**

Order pronounced in the open court on 24-07-2019.

Sd/-  
**(B.R.BASKARAN)**  
**ACCOUNTANT MEMBER**

Dated: 24-07-2019

**\*am**

Sd/-  
**(BEENA PILLAI)**  
**JUDICIAL MEMBER**

Copy of the Order forwarded to:

- 1.Appellant;
- 2.Respondent;
- 3.CIT;
- 4.CIT(A);
5. DR
6. ITO (TDS)
- 7.Guard File

By Order  
Asst. Registrar

