

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE BENCH 'SMC-B', BANGALORE**

**BEFORE SHRI A.K. GARODIA, ACCOUNTANT MEMBER**

**ITA Nos. 1438 to 1440 (Bang) 2019  
(Assessment years : 2009 – 10 to 2011 – 12)**

M/s. Durga Bar & Restaurant,  
D. No. 8 – 111/4, Durgadaya,  
Kinnigoli, Mangalore – 574150.  
**PAN. AAefd7057J**

Appellant

Vs

ITO, Ward – 2 (4),  
Mangalore.

Respondent

**Assessee by : Shree Srinivas Kamath, C. A.  
Revenue by : Shri Ganesh R. Ghale, Standing Counsel  
Date of hearing : 26-09-2019  
Date of pronouncement : 27-09-2019**

**ORDER**

**PER A. K. GARODIA, A.M.:**

Thee three appeals are filed by the assessee and these are directed against a combined order of CIT (A), Mangaluru dated 28.02.2019.

2. At the very outset, learned AR of the assessee submitted a copy of notice of hearing dated 18.02.2019 issued by CIT (A), Mangaluru fixing the date of hearing on 06.03.2019. He submitted that in reply, although written submissions were filed by the assessee before CIT (A) on 27.02.2019 as noted by CIT (A) in his order but the assessee has forgone or gave up the right of personal hearing and learned CIT (A) has passed the impugned order on 28.02.2019 without hearing the assessee. He submitted the matter should be restored to CIT (A) for fresh decision after hearing the assessee. Learned DR of the revenue supported the order of CIT (A).

3. I have considered the rival submissions. As per the facts noted above, it is seen that learned CIT (A) has passed the impugned order on 28.02.2019 although the date of hearing was fixed on 06.03.2019. Hence, proper opportunity of hearing was not provided to the assessee and therefore, I set aside this combined order of CIT (A) and restore the matter back to his file for a

fresh decision after providing adequate opportunity of being heard to both sides. In view of this decision, no adjudication is called for in respect of various grounds raised in these three appeals at the present stage.

4. In the result, all these three appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on the date mentioned on the caption page.

**Sd/-**  
**(A.K. GARODIA)**  
**ACCOUNTANT MEMBER**

Bangalore

D a t e d : 27.09.2019

/MS/

**Copy to :**

- 1 Appellant
- 2 Respondent
- 3 CIT(A), Bangalore
- 4 CIT
- 5 DR, ITAT, Bangalore.
- 6 Guard file

By order,

AR, ITAT, Bangalore