

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'B' BENCH, BENGALURU**

**BEFORE SHRI J. SUDHAKAR REDDY, ACCOUNTANT MEMBER  
AND  
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No.974/Bang/2019  
(Assessment year: 2015-16)

M/s.Allgo Embedded Systems Pvt.Ltd.,  
No.6, PSS Plaza, NAL Wind Tunnel Road,  
Kaverinagar, Murugeshpalya,  
Bengaluru-560017. ... Appellant  
*PAN:AAECA9982E*

Vs.

Deputy Commissioner of Income-tax,  
Circle 1(1)(1),  
Bengaluru. ... Respondent

Appellant by :Shri Suresh Muthukrishnan, CA  
Respondent by :Shri R.N.Siddappaji, Addl.CIT(DR)

Date of hearing: 15/07/2019  
Date of pronouncement: 17/07/2019

**O R D E R**

**Per J. SUDHAKAR REDDY, AM:**

This is an appeal by the assessee directed against the order of the CIT(A)-1, Bengaluru, dated 11/02/2019 for the assessment year 2015-16.

2. The sole ground that arises for our consideration is disallowance of Rs.46,80,000/- by the Assessing Officer. This amount has been paid as commission to Mr. Aji Anirudhan. The Id.CIT(A), at page 6, listed out the reasons based on which the Assessing Officer made the disallowance. This is extracted for ready reference:

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- The agreement reveals that it was made on 01.04.2015 i.e., after the end of the financial year in question FY 14-15 (annexure 1). This is a clear afterthought from the assessee to legitimise the commission payments journal entry of the individual Mr. Aji Anirudham.
- Moreover the individual ledger reveals that an amount of Rs. 42,12,000 was debited on 31.3.2015 making the entry highly suspect.
- The amount of Rs. 42,12,000/- is shown in sundry creditors list.
- The commission agreement with Mr. Aji Anirudham was cancelled from the next financial year.
- The assessee has not paid any commission in the earlier year. However, he had paid around Rs. 1.01 crores as commission expense in this AY. There is no clarity on the new business brought by the individual Mr. Aji Anirudham.
- The assessee has failed to conclusively prove that any new business and revenue which was brought in into the company this assessment year is due to Mr. Aji Anirudham.”

In appeal, the Id.CIT(A) concluded as follows:

“5.1 During these appeal proceedings, the appellant reiterated the submissions made before the AO, while he has not given any concrete evidence to rebut the findings of the AO supra. Therefore, I do not find any reason to deviate from the findings of the AO in this regard. Accordingly, the disallowance made by the AO is confirmed.”

Aggrieved, the assessee is in appeal before us.

3. After hearing the rival contentions, we find that the reasons based on which the Assessing Officer has made disallowance are not correct. The date of agreement in question was wrongly mentioned as 1/4/2015. In fact, the original agreement was entered on 1/4/2014. Copy of the same is placed at pages 43 to 48 of the paper book. This agreement was only renewed on 1/4/2015. The AO was confused and had taken the date of the renewal. Coming to the

allegation that the amount of Rs.42,12,000/- was debited in the year ending i.e. on 31/3/2015, we find from the ledger account, extract which is placed at page 39 of the paper book, that entries have been passed from August 2014 and it is not the case where the entire commission was debited on a single day. Coming to the issue of cancellation of agreement, the assessee submitted that Mr. Aji Anirudhan had joined the company as a Senior Manager Sales and consequently the commission agreement was terminated. Copy of the appointment letter is at page 82 and 83 of the paper book. Thus, this reason also is not a ground for disallowance. Coming to increase in commission payment, during the previous year we find that the revenue from operations have also gone up. This reason cannot form the basis of disallowance. The assessee has deducted tax at source on the payment of commission and remitted the balance commission through banking channels. Before us, the assessee furnished paper book wherein copies of numerous e mails are placed, the perusal of which demonstrates that the commission agent Mr. Aji Anirudhan was involved in sales of goods of the assessee. The sales on which commission was paid was also given in detail. In view of the above discussion, we are of the considered opinion that disallowance is bad in law as it is based on only surmises and conjectures. The assessee has produced all necessary evidence in support of his claim. In view of the above, the deduction of commission paid to Mr. Aji Anirudhan as claimed is hereby allowed.

4. In the result, the appeal of the assessee is allowed for statistical purposes.

*Order pronounced in the open court on 17<sup>th</sup> July, 2019.*

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

Place : Bengaluru  
Dated : 17/07/2019  
*srinivasulu, sps*

**Copy to :**

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

*Sd/-*  
**(J. SUDHAKAR REDDY)**  
**ACCOUNTANT MEMBER**

By order

Assistant Registrar  
Income-tax Appellate Tribunal  
Bangalore