

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC” BENCH, AHMEDABAD**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER &  
Ms. MADHUMITA ROY, JUDICIAL MEMBER**

ITA No. 2833/Ahd/2017  
(Assessment Year : 2014-15)

CB Doctor Ventilators Pvt. Ltd., 3607-3608, GIDC Estate, Phase – IV, Vatva, Ahmedabad – 382 445.	Vs.	ITO, Ward – 1(1)(3), Ahmedabad.
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[PAN No. AADCC 3410 A]

(Appellant)

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(Respondent)

Appellant by :	--None--
Respondent by :	Shri Richa Rastogi, Sr. D.R.

Date of Hearing	17/07/2019
Date of Pronouncement	08/08/2019

**ORDER**

**PER Ms. MADHUMITA ROY - JM:**

The instant appeal filed by the assessee is directed against the order dated 28.09.2017 passed by the Commissioner of Income Tax (Appeals) - 1, Ahmedabad arising out of the order dated 19.12.2016 passed by the ITO, Ward-1(1)(3), Ahmedabad under section 143(3) of the Income Tax Act, 1961 (hereinafter referred as to “the Act”) for the Assessment Year 2014-15.

2. It appears from the records that for last four occasions none appeared on behalf of the assessee neither any adjournment was sought for. Hence, we are deciding the matter ex-parte. The matter relates to confirming of disallowance of Rs.8,67,478/- and Rs.46,961/- being the Employee’s Contribution to Provident Fund and Employee’s State Insurance Contribution respectively. The case of the assessee is this that such payment

were made belatedly but before the end of the relevant previous year and also before the due date of filing of return of income for the year under consideration. Admittedly, such payment was made by the assessee beyond the grace time allowed by the PF & ESIC Act. While disallowing the claim of the assessee the Learned AO relied upon the order passed by the Jurisdictional High Court in the case of CIT-vs-Gujarat State Road Transport Corporation reported in [2014] 41 taxmann.com 100 (Gujarat) where it has been held that with respect to the sum received by the assessee from any of his employees to which provision of sub clause 10(x) of Clause 24 of Section 2 is applied, the assessee shall be entitled to deduction of such amount in computing the income referred to under section 28 only if such sum is credited by the assessee to the employee's account in the relevant funds or fund's before the "due date". Thus, since the assessee admittedly credited such sum beyond the due date or even beyond the grace period disallowance u/s 36(1)(va) r.w.s. 2(24)(x) of the Act was made by the Learned AO. Resultantly, the amount of Rs.9,14,439/- was added to the total income of the assessee which was confirmed by the Learned CIT(A) in appeal relying upon the judgment passed in the matter of CIT-vs-GSRTC (Supra) passed by the Hon'ble Jurisdictional High Court which in our considered view is without any infirmity so as to warrant interferences. Hence the order passed by the authorities below is upheld. Assessee's appeal is, thus, found devoid of any merit and, therefore, dismissed.

3. In the result, assessee's appeal is dismissed.

**This Order pronounced in Open Court on**

**08/08/2019**

Sd/-  
( WASEEM AHMED )  
**ACCOUNTANT MEMBER**

Sd/-  
( Ms. MADHUMITA ROY )  
**JUDICIAL MEMBER**

Ahmedabad; Dated 08/08/2019  
*Priti Yadav, Sr.PS*

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-1, Ahmedabad.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad