

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

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

ITA No. 1944/Ahd/2017  
(Assessment Year : 2013-14)

Ascendum Solutions (India) Pvt. Ltd., 19, Akshat Kalyan Society, Nr. Nagri Hospital, Mithakhali, Ahmedabad.	Vs.	ITO, Ward – 1(1)(4), Ahmedabad.
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[PAN No. AAGCA 8236 M]

(Appellant)

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(Respondent)

<b>Appellant by :</b>	Shri Biren Shah, A.R.
<b>Respondent by :</b>	Shri B. P. Srivastava, Sr. D.R.

<b>Date of Hearing</b>	31/07/2019
<b>Date of Pronouncement</b>	06/08/2019

ORDER

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

The instant appeal filed by the assessee is directed against the order dated 28.07.2017 passed by the Commissioner of Income Tax (Appeals) - 1, Ahmedabad arising out of the order dated 23.03.2016 passed by the Learned DCIT, Circle-1(1)(4), Ahmedabad under section 143(3) of the Income Tax Act, 1961 (hereinafter referred as to “the Act”) for the Assessment Year 2013-14.

2. Admittedly the employee’s contribution to PF and ESIC was deposited by the assessee after the due date prescribed under the relevant provision of the Act and hence relying upon the provision of section 36(1)(va) r.w.s. 2(24)(x) and also the Judicial pronouncement made in the case of CIT-vs-Gujarat State Road Transport Corporation reported in [2014] 41 taxmann.com 100 (Gujarat), the Learned AO disallowed

Rs.2,52,715/- but it is the case of the assessee that such contribution has been made before the due date of filing of return of income and even before the completion of financial year and hence disallowance is not permissible.

3. Apart from that, the Learned AR also relied upon the order passed by the Coordinate Bench wherein the issue has been set aside to the file of the Learned AO on the premise that the same issue is still pending before the Hon'ble Apex Court and after the disposal of the issue by the Apex Court, the Learned AO has been directed to apply his mind to decide the matter accordingly. However, we are afraid to accept the said argument advanced by the Learned AR since there is no such order of stay passed by the Hon'ble Apex Court on matter where the identical issue is involved. Till date the pronouncement made by the Hon'ble Jurisdictional High Court in the matter of GSRTC has attained the finality and hence we find no reason to disturb the order passed by the authorities below in making disallowance of such contribution. In that view of the matter, we find no merit in the appeal filed by the assessee before us. Hence same is dismissed.

4. **Ground No.2 & 3:** At the time of hearing of the instant appeal, the Learned Counsel appearing for the assessee submitted before us that he dose not want to press these grounds, hence the same are dismissed as not pressed.

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

**This Order pronounced in Open Court on**

**06/08/2019**

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

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

Ahmedabad; Dated 06/08/2019  
*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)-2, 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