

## Pr. Commissioner of Income Tax 2, Pune v. Amcon Construction

Income Tax Appeal No. 46 of 2024

Income Tax Appeal No. 46 of 2024 (Bom HC, decided 13.03.2026) | 2026-03-13

**Alleged hawala/bogus purchases based on general Sales Tax Department information: restriction of disallowance to 10% profit element upheld where sales were accepted.**

Income-tax Act, 1961: sections 37(1), 69C, 133(6) and 260A

High Court of Judicature at Bombay | 2-judge bench (Division Bench) | G. S. Kulkarni, J. | Aarti Sathe, J.

Assessment years: 2011-12

### **Fact-specific profit-element estimation where corresponding sales are accepted; not a blanket 10% cap**

The High Court affirmed the ITAT's restriction of the disallowance to 10% (down from 25% sustained by the CIT(A)) because the Department did not reject the assessee's sales and the addition rested on general Sales Tax Department information regarding hawala entry providers without independent transaction-specific proof. Where purchases are proved wholly fictitious with no corresponding consumption or sales, full disallowance may still apply.

### **01 FACTS OF THE CASE**

For AY 2011-12, on the basis of information forwarded by the Sales Tax Department regarding alleged hawala entry providers (including M/s Oriental Enterprises), the Assessing Officer treated the assessee's disputed purchases as bogus and made a disallowance that was sustained at 25% by the CIT(A)-3, Pune. On further appeal, the ITAT Pune by order dated 10.11.2021 restricted the disallowance to 10% of the alleged bogus purchases. The Revenue appealed under section 260A, contending that the assessee had failed to produce delivery challans, weigh slips and octroi receipts and invoking N.K. Proteins Ltd. v. DCIT (SLP No. 769 of 2017).

Source: [Paragraphs 1-4 and 12; PDF pp. 1-2, 9](#)

## **02 DISCUSSION BY THE HON'BLE COURT**

The Division Bench held that the issue was squarely covered by its coordinate-bench decisions in PCIT v. Paramshakti Distributors Pvt. Ltd. (ITXA No. 413 of 2017), PCIT-1 v. SVD Resins & Plastics (P.) Ltd., (2025) 474 ITR 151 (Bom), and CIT v. Ramelex (P.) Ltd., 2025 SCC OnLine Bom 3862. Reproducing extensive extracts from those rulings, the Court emphasised that where the Assessing Officer has not rejected the corresponding sales made out of the disputed purchases and relies merely on general information from the Sales Tax Department without independent case-specific verification, furnishing adverse material, or affording cross-examination, only the profit element embedded in the disputed purchases can be brought to tax. Determining that embedded profit element at 10% was a reasonable factual finding by the Tribunal.

Source: [Paragraphs 5-15; PDF pp. 2-9](#)

## **03 JUDICIAL DECISION**

Holding that the ITAT rightly restricted the addition to 10% of the alleged bogus purchases and that the issues were essentially findings of fact raising no substantial question of law under section 260A, the High Court dismissed the Revenue's appeal with no order as to costs.

Source: [Paragraphs 14-16; PDF pp. 9-10](#)

## **04 OUTCOME / IN WHOSE FAVOUR**

In favour of the assessee (Amcon Construction) on the Revenue's appeal. The ITAT's order restricting the addition to 10% of the disputed purchases (as against 25% sustained by the CIT(A)) was upheld.

Source: [Paragraphs 14-16; PDF pp. 9-10](#)

**05 AKHB REVIEW POINT**

AKHB analysis: in Sales Tax / MVAT hawala-information cases, compile complete quantitative stock tallies linking disputed inputs to accepted sales, purchase invoices, ledger accounts and account-payee bank payment proofs, and specifically request copies of third-party statements and cross-examination during assessment. Note that the assessee here did not cross-appeal against the 10% estimation sustained by the ITAT.

Source: [AKHB analysis based on paragraphs 7-15 / PDF pp. 3-9](#)

**SOURCE & VERIFICATION**

[Bombay High Court official signed order PDF - AKHB Cloud Repository](#)

Ten-page official Bombay High Court signed order PDF; paragraphs 1-16 span PDF pages 1-10.

Supplied source-reviewed note retained; original bytes and identity validation checked in this release. Substantive re-review is not claimed for this record.

[Open cited source rendition](#)

Full 10-page official Bombay High Court signed PDF read and verified. Original bytes match SHA-256 08065docb91d5d74a1f254d817ec883e29fc8e52721dfe56d48efd1fcf79d86a.

**STATUTORY SCOPE**

Applies the Income-tax Act, 1961 for AY 2011-12. Income-tax Act, 2025 equivalence is not verified.

**LATER TREATMENT**

Source checked 2026-10-16. Full order checked. Comprehensive subsequent judicial treatment has not been verified.

**AI DISCLOSURE**

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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