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: section 260A; section 133(6) appears in a quoted precedent

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

Assessment years: 2011-12

The 10% estimate is fact-specific

The Court upheld the Tribunal's estimate on the record and cited analogous decisions. It did not establish a statutory 10% cap. Detailed inquiry and cross-examination passages come from quoted precedents and are not additional findings about every Amcon transaction.

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 Court found the issue covered by Paramshakti Distributors, SVD Resins & Plastics and Ramelex. Its lengthy quotations address accepted sales, inadequate transaction-specific inquiry and the need to test adverse Sales Tax material. They also recognise that proof can support a different result; the estimates in the quoted cases vary. Applying those decisions, the Court held that the ITAT rightly restricted Amcon's addition to 10% and that Revenue raised factual issues, not a substantial question of law. The source's detailed cross-examination and VAT narratives belong to the reproduced cases.

Source: Own paras.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 EXPERT COMMENTS

Ten per cent is an estimate, not a safe harbour — The Court sustained the Tribunal's figure on this record, reducing the 25% retained by the CIT(A). The quoted authorities use differing percentages and discuss the underlying evidence. Neither party should substitute this percentage for proof of the goods, transactions and profit component in another case.

Connect the allegation to the particular purchases — A supplier appearing in Sales Tax information starts an inquiry; it does not by itself establish that every recorded purchase is fictitious. The quoted reasoning stresses transaction evidence and disclosure of adverse material. Conversely, accepted sales do not automatically authenticate every purchase invoice. The factual connection remains central.

Do not migrate precedent facts into Amcon — The cross-examination, VAT and monetary details in the long extracts relate to earlier litigants. The final Amcon paragraphs apply those decisions but do not independently reproduce each factual defect. Use the original assessment and appellate record before asserting that a particular witness or document was withheld in this case.

Match the appellate challenge to the factual finding — Revenue did not secure interference under section 260A. A challenge to an estimate needs an identified legal error or a defect in the factual reasoning, not merely preference for a larger percentage. The decision neither deletes the remaining 10% nor supplies a general immunity for unproved purchases.

Source: Editorial analysis; sources identified in the structured comments

SOURCE & VERIFICATION

Bombay High Court official signed order PDF - AKHB Cloud Repository

Complete 10-page original reviewed; scope and source anomalies stated below.

All 10 source pages read and visually inspected; original hash verified. AI-assisted substantive review.

Open cited source rendition

Source bytes and identity checked; see panel-specific source references.

STATUTORY SCOPE

Section 260A factual-appellate threshold; section 133(6) occurs in quoted precedent, not a separate operative ruling here.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment not independently 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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