**IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER**
**&**
**SHRI G.M. DOSS, ACCOUNTANT MEMBER**

**ITA No.9529/Mum/2026**
(**Assessment Year :2024-25**)

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| M/s. Om Swastik Multitrade<br>Building No.9,<br>Unit No.310/311, 3rd Floor, Jogani Industrial Premises, Near Tata Workship<br>Chunabhatti(E)<br>Mumbai- 400 070 | Vs. | ITO-Ward 34(3)(2), Mumbai |
| **PAN/GIR No.AAFFO4071L** | | |
| **(Appellant)** | .. | **(Respondent)** |

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| Assessee by | Ms. Dinkle Haria |
| Revenue by | Ms. Rupa Dhande, SR AR (virtual appearance) |
| **Date of Hearing** | **15/10/2026** |
| **Date of Pronouncement** | **15/10/2026** |
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**आदेश / O R D E R**

**PER AMIT SHUKLA (J.M):**

This appeal by the assessee is directed against the order dated 6 August 2026 passed by the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, for Assessment Year 2024–25, arising from the assessment order

dated 24 March 2026 passed under section 143(3) read with section 144B of the Income-tax Act, 1961. The assessee, a partnership firm engaged in the business of cement, logistics and infrastructure, returned total income of ₹17,86,120. The Assessing Officer made two disallowances under section 40(a)(ia): ₹2,96,02,117, being 30% of purchases aggregating to ₹9,86,73,725, on the ground of alleged non-deduction of tax under section 194Q; and ₹1,97,100, being 30% of rent expenditure of ₹6,57,000, on the ground of alleged non-deduction or short deduction of tax at source. The learned CIT(A) sustained both disallowances. The assessee is in appeal before us.

2. The material placed before us indicates that, during the assessment proceedings, the assessee had furnished details concerning TDS payments and returns, Forms 16 and 16A, the deductee list and its explanation regarding section 194Q. The assessment order refers to a reply dated 13 March 2026, while also recording that no reply was filed to the show-cause notice dated 9 March 2026 proposing the impugned additions. The assessee thereafter filed an appeal before the learned CIT(A) on 24 April 2026. The appellate proceedings were enabled on 1 May 2026; a hearing notice dated 16 June 2026 required submissions by 29 June 2026, and the assessee states that written submissions were filed on that date. The learned CIT(A) passed the impugned order on 6

August 2026. We do not rest our decision on the number of hearing notices issued in the first appeal. The question before us is whether the disallowances can be sustained without verification of the supplier-wise and payee-wise material now placed on record and of the statutory conditions governing deduction of tax at source.

3. The assessment order records purchases of ₹4,97,31,708 from Om Swastik Trading and ₹4,89,42,017 from Kvalitet Resources LLP, aggregating to ₹9,86,73,725. The Assessing Officer observed that the suppliers appeared to be related concerns, that tax had not been deducted under section 194Q and that the reasonableness of the purchases had not been substantiated with reference to comparable market value under section 40A(2)(b). He thereafter disallowed 30% of the aggregate purchases under section 40(a)(ia). The assessee's case is that tax was deducted on the purchases from Kvalitet Resources LLP and that, in relation to Om Swastik Trading, the corresponding receipts were included in the payee's return and tax was paid. These are distinct factual claims and must be examined separately. The relationship of a supplier with the assessee does not, by itself, establish non-deduction of tax under section 194Q or justify a disallowance under section 40(a)(ia).

4. The applicability of section 194Q is subject to the conditions prescribed in that provision. Among other things, the buyer's sales, gross receipts or turnover from business in the immediately preceding financial year must have exceeded ₹10 crore; where the provision applies, tax is deductible at 0.1% on the amount of purchases from a resident seller exceeding ₹50 lakh. The material presently referred to does not establish the assessee's turnover for the immediately preceding financial year. In respect of Kvalitet Resources LLP, the purchases are stated at ₹4,89,42,017. On that amount, the tax deductible on the sum exceeding ₹50 lakh would be approximately ₹43,942. The assessee relies on a Form 16A reflecting tax deducted at source of ₹49,073. The Assessing Officer shall verify the assessee's turnover for the relevant preceding year, the residence of the supplier, the amount and timing of the purchases, and the TDS return and challan particulars. The deduction shown in Form 16A shall be reconciled with the purchase ledger and the relevant quarterly statement, including whether the tax was deposited within the time prescribed by law. If section 194Q was not attracted, no default under that provision could arise; if it was attracted and the tax required to be deducted was in fact deducted and deposited within the prescribed time, the disallowance under section 40(a)(ia) cannot be sustained on that account.

5. In respect of Om Swastik Trading, the assessee has placed before us Form 26A and an accountant's certificate. The certificate records purchases of ₹4,97,31,708, states that the payee filed its return for Assessment Year 2024–25 on 12 October 2024, and certifies that the corresponding receipts were taken into account in computing the payee's income and that tax was paid. The Form 26A and accountant's certificate before us are dated 8 October 2026, after the order of the learned CIT(A). The portal material separately reflects an earlier upload and e-verification, with acceptance shown as pending. The timing and status of these documents make verification by the Assessing Officer necessary; they do not, without examination of the underlying return and tax particulars, conclude the issue. The Assessing Officer shall verify the payee's return, the inclusion of the receipts of ₹4,97,31,708, the tax payable and paid, and the prescribed accountant's certificate and Form 26A filing status. If the conditions of the first proviso to section 201(1) are satisfied, the consequence provided by the second proviso to section 40(a)(ia) shall follow. The certificate records tax deductible of ₹49,731; since section 194Q applies to the amount exceeding ₹50 lakh, the Assessing Officer shall also reconcile this figure with the statutory threshold and the purchase records. Any discrepancy in the computation shall be examined on its merits and shall not, by itself, dispense with verification of the payee-side conditions.

6. The assessment order's reference to section 40A(2)(b) must be kept distinct from the disallowance quantified under section 40(a)(ia). Section 40(a)(ia) operates where tax deductible under Chapter XVII-B has not been deducted or, after deduction, has not been paid within the prescribed time. The fact that a supplier may be related to the assessee does not establish either of those conditions. Nor does the absence of a comparable market-value analysis, without a finding identifying the amount found excessive or unreasonable, furnish a basis for sustaining a 30% disallowance under section 40(a)(ia). The impugned purchase disallowance has been quantified under that provision. Accordingly, the Assessing Officer shall determine the TDS issue by applying the statutory conditions and examining the evidence described above; the relationship between the parties or the general observation concerning market value shall not, by itself, sustain the disallowance made under section 40(a)(ia).

7. As regards rent, the assessment order records total rent expenditure of ₹17,37,000, tax deducted on ₹10,80,000 and a balance of ₹6,57,000 on which, according to the Assessing Officer, no tax was deducted. The assessee has furnished a payee-wise statement of that balance: ₹2,24,000 paid to Bina Mehta, ₹1,03,000 to Ashok Srinivas, ₹3,00,000 to Real Sign and ₹30,000 to Bharat Infra. It submits that the payments to the first, second and fourth payees were individually below

the threshold under section 194-I applicable to the relevant previous year, while tax of ₹30,000 was deducted on the payment to Real Sign. For the relevant year, the threshold under section 194-I was ₹2,40,000 in respect of rent paid or credited to each payee. The Assessing Officer shall verify the rent ledger, the identity of each payee, the nature of the payment and the relevant agreements, and shall examine the TDS return and challan to determine whether tax was deducted and deposited within the prescribed time on the payment to Real Sign. The assessee's reference to an aggregate threshold shall not be taken as its case: the relevant inquiry is whether the amount paid or credited to each payee individually crossed the applicable threshold. If the three stated payments were individually below that threshold and tax was duly deducted and deposited on the payment to Real Sign, the balance of ₹6,57,000 would not warrant the impugned disallowance under section 40(a)(ia).

8. The supplier-wise and payee-wise claims involve verification of records that were not examined in the assessment in the manner now required, and the Form 26A material post-dates the order of the learned CIT(A). It would therefore not be appropriate to affirm the disallowances without that verification. We accordingly set aside the findings of the learned CIT(A) on the disallowances of ₹2,96,02,117 and ₹1,97,100 and restore the matter to the file

of the Assessing Officer for fresh adjudication in accordance with law. The Assessing Officer shall consider the material already on record as well as the Form 26A and accountant's certificate placed before us, verify the claims separately for each supplier and each rent payee, and pass a speaking order after affording the assessee a reasonable opportunity of being heard. Consequential relief shall be granted wherever the assessee establishes that tax was not required to be deducted, was duly deducted and deposited, or is deemed to have been deducted and paid under the applicable provisos.

**9. In the result, the appeal is allowed for statistical purposes**.

Order pronounced on 15th October, 2026.

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| **Sd/-** | **Sd/-** |
| **(G.M.DOSS)** | **(AMIT SHUKLA)** |
| **ACCOUNTANT MEMBER** | **JUDICIAL MEMBER** |

Mumbai; Dated 15/10/2026
KARUNA, *sr.ps*

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
**ITAT, Mumbai**