

The Commissioner of Income-Tax & Anr. v. M/s. Cisco Systems (India) Pvt. Ltd.

Income Tax Appeal No. 379 of 2013

2026:KHC:48625-DB | 2026-09-08

Transfer pricing most appropriate method under section 92C & Rule 10B (AY 2007-08): captive entity importing warranty/AMC replacement spares from US AE and delivering them to AE's Indian customers at NIL price for a 1% markup is a service provider benchmarkable under TNMM, not a trader under Resale Price Method (RPM).

Income-tax Act, 1961: sections 10A, 92C, 92C(2), 92CA, 143(3), 144C and 260A | Income-tax Rules, 1962: Rules 10A to 10E

High Court of Karnataka | 2-judge bench (Division Bench) | Vibhu Bakhru, CJ. | K. S. Hemalekha, J.

Assessment years: 2007-08

Post-Supreme-Court remand adjudication confined to Transfer Pricing questions; Question 6 (section 10A total turnover) not pressed as outside remand scope

As recorded in paragraphs 19-24 (PDF pp. 9-11), this appeal was originally dismissed on 11.07.2018 following Softbrands and was remitted by the Supreme Court in Sap Labs India Pvt. Ltd., (2024) 17 SCC 344 solely to examine compliance with Chapter X and Rules 10A-10E. Revenue counsel fairly stated that Question 6 (section 10A export/total turnover parity) did not require consideration within the remand scope. Also note minor date discrepancy between the prayer (ITAT order dated 28.03.2013) and para 1 (20.03.2013), and between para 4 (DRP order dated 02.09.2011) and para 5 (final assessment order dated 30.12.2010).

01 FACTS OF THE CASE

For AY 2007-08, the Transfer Pricing Officer passed an order dated 28.10.2010 under section 92CA making a transfer pricing adjustment of Rs. 80,52,22,112 in respect of spare-part replacement services rendered by M/s. Cisco Systems (India) Pvt. Ltd. to its US Associated Enterprise (Cisco US). Under the arrangement, Cisco group provided product warranties and sold AMCs to distributors; the Indian assessee imported replacement spares from Cisco US, acted as custodian, delivered replacements at NIL sales price to the AE's customers in India, returned or scrapped defective/obsolete parts as directed by the AE, was reimbursed customs duties, and earned a 1% markup on import cost. The assessee benchmarked the activity as a captive service under TNMM. The TPO re-characterised the assessee as a trader, applied the Resale Price Method (RPM), and made the Rs. 80.52 crore addition, which the DRP confirmed. The ITAT reversed the TPO, held that the assessee was a custodian/service provider lacking title, price-fixing autonomy or customer-selection rights, rejected RPM, and remanded the ALP computation to be carried out under TNMM. After the High Court's initial dismissal of the Revenue's appeal on 11.07.2018 (following Softbrands) was set aside and remitted by the Supreme Court in Sap Labs, (2024) 17 SCC 344, the appeal was heard afresh.

Source: [Paragraphs 1-22; PDF pp. 2-10](#)

02 DISCUSSION BY THE HON'BLE COURT

Examining the controversy in accordance with the Supreme Court's mandate in *Sap Labs India Pvt. Ltd.*, (2024) 17 SCC 344, the Division Bench held that the Tribunal had properly analysed the assessee's functions, assets and risks (FAR) under Rule 10B. Unlike an independent trader who purchases goods by taking title, bears inventory risk, fixes the resale price, and selects customers, the assessee delivered replacement spares to the AE's warranty/AMC customers at a NIL sales price under the AE's directions and acted merely as a custodian earning a 1% cost markup. Consequently, the Tribunal's conclusion that the assessee's functional profile was akin to a service provider rather than a trader—and that TNMM rather than RPM was the Most Appropriate Method—suffered from no fault or perversity.

Source: [Paragraphs 23-28; PDF pp. 11-12](#)

03 JUDICIAL DECISION

Following its companion order in ITA No. 23/2005 passed on the same day and finding no substantial question of law, the High Court dismissed Income Tax Appeal No. 379 of 2013.

Source: [Paragraphs 27-28; PDF p. 12](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee (M/s. Cisco Systems (India) Pvt. Ltd.). The Revenue's appeal for AY 2007-08 was dismissed, affirming the ITAT's direction to benchmark spare-part replacement support under TNMM rather than RPM.

Source: [Paragraphs 27-28; PDF p. 12](#)

05 AKHB REVIEW POINT

AKHB analysis: where an Indian subsidiary imports warranty or AMC replacement hardware from an overseas OEM solely to fulfill the OEM's warranty obligations in India, structure and document four FAR markers to defeat Resale Price Method (RPM) re-characterisation: (1) zero resale price charged to Indian end-customers on replacement delivery, (2) customs duty and obsolescence/scrap risk borne or reimbursed by the overseas OEM, (3) no customer-selection or price-setting autonomy in India, and (4) cost-plus remuneration on logistics/custodianship.

Source: [AKHB analysis based on paragraphs 7-17, 25-28 / PDF pp. 4-8, 11-12](#)

SOURCE & VERIFICATION

[High Court of Karnataka official digital judgment PDF - AKHB Cloud Repository](#)

Twelve-page official High Court of Karnataka judgment PDF (2026:KHC:48625-DB); paragraphs 1-28 span PDF pages 1-12.

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 12-page official High Court of Karnataka PDF read and verified. Original bytes match SHA-256 7bc4d55beb29349cf5782921fbc8ef6ddd8d49f029af0f715bba4a54b7fe2319.

STATUTORY SCOPE

Applies sections 92C and 92CA of the Income-tax Act, 1961 read with Rules 10A to 10E of the Income-tax Rules, 1962 for AY 2007-08. Income-tax Act, 2025 equivalence is not verified.

LATER TREATMENT

Source checked 2026-10-17. Full judgment checked. Decided on remand from Sap Labs India Pvt. Ltd. v. ITO, (2024) 17 SCC 344, and follows companion order in ITA No. 23/2005 decided on the same day. 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.

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment or a substitute for the full order. Applicability depends on facts, assessment year, statutory version and jurisdiction. Subsequent treatment is unverified unless identified sources are expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.