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

Income Tax Appeal No. 140 of 2014

2026:KHC:48628-DB | 2026-09-08

AY 2008–09 spare-replacement services: Revenue's challenge to TNMM recomputation dismissed; service-provider functional finding sustained.

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: 2008-09

Recomputation remains; no cross-year immunity

The judgment sustains TNMM remand, not an approved 1% margin or final nil adjustment. Questions 4 and 5 were outside the remand inquiry. Assessment date is 12 October 2012 in paragraph 1 but 28 October 2011 in paragraph 5; the source conflict is retained.

01 FACTS OF THE CASE

For AY 2008-09, the Transfer Pricing Officer passed an order dated 28.10.2011 under section 92CA making a transfer pricing adjustment of Rs. 128,79,01,373 in respect of spare replacement services rendered by M/s. Cisco Systems (India) Pvt. Ltd., rejecting the assessee's TNMM study and applying the Resale Price Method (RPM) by treating the assessee as a trader. Following DRP directions dated 16.08.2012 and the final assessment order dated 12.10.2012, the ITAT Bangalore (by order dated 31.10.2013 in IT(TP)A No. 1510/Bang/2012) held that the assessee acted only as a custodian delivering warranty/AMC replacement parts to its AE's customers at NIL sales price for a 1% markup without price-fixing or customer-selection rights, rejected RPM, and remanded the matter to the TPO/AO to recompute ALP under TNMM. After the High Court's initial dismissal dated 12.07.2018 (based on Softbrands) was remitted by the Supreme Court in Sap Labs, (2024) 17 SCC 344, the appeal was heard afresh.

Source: Paragraphs 1-21; PDF pp. 2-11

02 DISCUSSION BY THE HON'BLE COURT

The Court examined the Tribunal's accepted functional and risk profile: Cisco acted as custodian, delivered parts at nil value under its parent's directions and lacked resale-price and customer-selection discretion. The Tribunal remanded ALP computation using TNMM and appropriate comparables. Revenue did not contend that the functional finding was perverse. The Court found no fault and no substantial question, referring to ITA 23/2005. Questions 4 and 5 on head-count allocation and section 10A turnover were not considered within the Supreme Court remand.

Source: Own paras.13–16,21–27; PDF pp.6–8,10–12

03 JUDICIAL DECISION

Holding that no substantial question of law arose in the appeal, the High Court dismissed Income Tax Appeal No. 140 of 2014.

Source: Paragraph 27; PDF p. 12

04 OUTCOME / IN WHOSE FAVOUR

Revenue's AY 2008–09 appeal was dismissed. TNMM recomputation remained the operative direction, replacing the challenged Rs.128,79,01,373 RPM adjustment. This order does not quantify the eventual ALP adjustment or establish the result of subsequent remand proceedings.

Source: Own paras.16,25–27; PDF pp.8,12

05 EXPERT COMMENTS

Keep the annual record separate — The same service-versus-trading issue arose in the adjacent year, but this is a distinct AY 2008–09 appeal and adjustment. Its dismissal is not multi-year immunity for every warranty or AMC arrangement. Compare the year's actual contracts, functions and risks before relying on an earlier result; retain each assessment and remand computation separately.

Reconcile custody with the actual commercial rights — The accepted profile involved nil-price supply, no resale-price or customer-selection discretion and custody under the parent's directions. The source also records reimbursement of customs duty and handling of obsolete or rejected parts at the AE's direction. Test those features against actual transactions rather than infer a service profile merely from imported parts or a cost-plus label.

Do not equate method selection with final pricing — The Tribunal directed TNMM with proper comparables and consideration of the former section 92C(2) range under relevant precedent. The High Court sustained that approach without approving the recorded 1% markup as the final ALP. Track the subsequent computation and comparable evidence; the judgment alone does not establish either no adjustment or an automatic 5% deduction.

Respect the scope of the returned appeal — SAP Labs required examination of compliance with the Act and Rules. It did not eliminate appellate review of transfer-pricing findings, although Revenue did not allege perversity in this functional finding. Conversely, questions 4 and 5 were expressly outside the inquiry: do not cite this disposal as a fresh ruling on head-count cost allocation or section 10A turnover exclusions.

Source: Editorial analysis; own paras.1–27; PDF pp.2–12

SOURCE & VERIFICATION

High Court of Karnataka official digital judgment PDF - AKHB Cloud Repository

Twelve-page judgment; own paragraphs 1–27 on PDF pp.2–12. Separate ITA 140/2014 for AY 2008–09, not an alias of ITA 379/2013.

All 12 original pages read and visually inspected; source hash verified. AI-assisted substantive correction.

Open cited source rendition

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

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 2008-09. Income-tax Act, 2025 equivalence is not verified.

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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