

Commissioner of Income Tax-III & Anr. v. M/s Torry Harris Business Solutions Pvt. Ltd.

Income Tax Appeal No. 155 of 2015

2026:KHC:50456-DB | 2026-09-16

Transfer pricing under section 92C & Rule 10B (AY 2009-10): Rs. 1–200 crore turnover filter upheld under Sap Labs India; Bodhtree Consulting Ltd. (software product company) excluded even though initially proposed by assessee; exclusion of comparables by ITAT does not warrant a fresh TPO search.

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

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

Assessment years: 2009-10

Taxpayer not estopped from seeking exclusion of a functionally dissimilar comparable (Bodhtree Consulting Ltd.) initially included in its own TP study

Following Cisco Systems (India) (P) Ltd. v. DCIT, 66 SOT 82 (Bang) and PCIT v. Fiserv India (P) Ltd., [2018] 92 taxmann.com 471 (Del), the Division Bench affirmed (paragraphs 17-21, PDF pp. 10-16) that the fact that the assessee had initially proposed Bodhtree Consulting Ltd. in its own TP study cannot justify retaining it once it is factually shown to be a software product company lacking segmental data. Note also that Questions 6 (section 194J leased-line TDS) and 7 (section 10A foreign-currency exclusion from total turnover) were not pressed by the Revenue.

01 FACTS OF THE CASE

The assessee, M/s Torry Harris Business Solutions Pvt. Ltd., developed computer software as a captive service provider for its Associated Enterprise, disclosing a margin of 13.08% on sales and claiming section 10A deduction of Rs. 17,54,94,079 for AY 2009-10. On reference under section 92CA, the TPO (order dated 30.01.2013) selected 11 comparables (including Bodhtree Consulting Ltd. at 38.37%, Tata Elxsi, Sasken, Persistent Systems, Zylog, Mindtree, L&T Infotech, and Infosys Ltd. at Rs. 20,264 crore turnover and 31.32% margin) with an average mean margin of 18.07% and made a transfer pricing adjustment of Rs. 20,50,06,773, which the DRP confirmed on 12.12.2013. By order dated 21.11.2014 in IT(TP)A No. 113/Bang/2014, the ITAT applied a Rs. 1–200 crore turnover filter, excluded Bodhtree Consulting Ltd. as a software product company, and directed the TPO/AO to recompute the margin. After the High Court's initial dismissal dated 02.07.2018 (following Softbrands) was remitted by the Supreme Court in Sap Labs, (2024) 17 SCC 344, the appeal was heard on merits.

Source: [Paragraphs 1-14; PDF pp. 2-9](#)

02 DISCUSSION BY THE HON'BLE COURT

The Division Bench rejected all five transfer pricing questions pressed by the Revenue: (1) Questions 1 to 3 (Rs. 1–200 crore turnover filter, paras 15–16): Covered against the Revenue by Sap Labs India Pvt. Ltd. v. ITO, ITA No. 10/2011 (decided 28.08.2026), which held that company size and turnover materially affect transaction pricing under FAR analysis and a Rs. 200 crore upper turnover filter is rational and non-arbitrary; (2) Question 4 (Exclusion of M/s Bodhtree Consulting Ltd., paras 17–21): Bodhtree was engaged in software product development, technology incubation, data warehousing and end-to-end web solutions without public segmental breakup, and experienced abnormal profit spikes (441% PBIT jump in FY 2008–09). Following Cisco Systems (66 SOT 82) and PCIT v. Fiserv India (P) Ltd., [2018] 92 taxmann.com 471 (Del)—and as fairly conceded by Revenue counsel—Bodhtree could not be compared to a pure captive software service provider even though initially included by the assessee; and (3) Question 5 (Scope of remand to TPO, paras 22–23): Exclusion of functionally dissimilar comparables from the TPO's final set does not require or permit the TPO to conduct a fresh comparability search from scratch.

Source: [Paragraphs 15–23; PDF pp. 9–16](#)

03 JUDICIAL DECISION

Finding no error in the decision of the ITAT and holding that no substantial question of law arose, the High Court dismissed Income Tax Appeal No. 155 of 2015.

Source: [Paragraphs 23–24; PDF pp. 16–17](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee (M/s Torry Harris Business Solutions Pvt. Ltd.). The Revenue's appeal was dismissed, affirming the ITAT's turnover-filter and comparable exclusions against the Rs. 20,50,06,773 adjustment for AY 2009–10.

Source: [Paragraphs 23–24; PDF pp. 16–17](#)

05 AKHB REVIEW POINT

AKHB analysis: (1) If an assessee's TP study inadvertently includes a company later discovered through annual reports or coordinate-bench rulings to own software products or lack segmental data (such as Bodhtree Consulting Ltd.), raise an additional ground before DRP/ITAT to exclude it—there is no estoppel against correcting FAR comparability under Rule 10B; (2) Resist any attempt by the TPO in appeal-effect proceedings to cherry-pick new comparables when the ITAT only directed exclusion of specific companies from the existing matrix.

Source: [AKHB analysis based on paragraphs 15-23 / PDF pp. 9-16](#)

SOURCE & VERIFICATION

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

Seventeen-page official High Court of Karnataka judgment PDF (2026:KHC:50456-DB); paragraphs 1-24 span PDF pages 1-17.

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

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Full 17-page official High Court of Karnataka PDF read and verified. Original bytes match SHA-256 2783c4c1e6c904a72733bb90832f44efode41fecbe8510e5a33844cf52744bde.

STATUTORY SCOPE

Applies sections 92C and 92CA of the Income-tax Act, 1961 read with Rule 10B of the Income-tax Rules, 1962 for AY 2009-10. Income-tax Act, 2025 equivalence is not verified.

LATER TREATMENT

Source checked 2026-10-17. Full judgment checked. Follows Sap Labs India Pvt. Ltd. v. ITO, ITA No. 10/2011 (decided 28.08.2026) and PCIT v. Fiserv India (P) Ltd., [2018] 92 taxmann.com 471 (Del). Comprehensive subsequent judicial treatment has not been verified.

AI DISCLOSURE

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