# 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

## Captive software services: turnover filter and Bodhtree exclusion sustained on the recorded facts; a fresh search was unnecessary on this remand.

Income-tax Act,1961: sections 10A, 92C, 92CA, 143(3), 144C, 260A | Income-tax Rules,1962: Rule10B

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

Assessment years: 2009-10

### 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: PDF pp.2–8, paras 2–12

## 02 DISCUSSION BY THE HON'BLE COURT

The Court rejected questions 1–3 because, in the given facts and applying its 28 August 2026 SAP Labs decision, the Rs.1–200 crore turnover filter was rational. For question 4, Bodhtree's software-product and intellectual-property profile differed from the assessee's captive development services; Revenue conceded that it was not comparable to a pure captive software developer. The extended Fiserv quotation includes arguments and findings from that earlier litigation, not new findings about every financial fluctuation in this appeal. For question 5, a fresh ALP exercise was unnecessary because the TPO already had a final comparable set requiring the identified exclusions. Questions 6 and 7, concerning leased-line payments and the deduction computation, had not been pressed earlier and were not considered.

Source: PDF pp.9–17, paras 14–24

## 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: PDF p.17, para 24

## 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: PDF p.17, para 24

## 05 EXPERT COMMENTS

AKHB Expert Comments — editorial analysis, distinct from the Court's findings.

The Supreme Court remand required an actual compliance examination: The earlier Softbrands-based dismissal did not end the appeal: SAP Labs required examination of the Tribunal's work against the Act and Rules. The subsequent dismissal followed that examination of the proposed questions. The case therefore illustrates a fact-sensitive section 260A review, not a rule that transfer-pricing findings can never raise a legal question. (PDF pp.6–9, paras 11–14)

Turnover and functional difference did different work: Questions 1–3 concerned the turnover range, which the Court sustained in the given facts. Bodhtree's exclusion separately depended on its product/IP profile compared with captive software development, reinforced by Revenue's concession. The quoted Fiserv discussion contains other litigants' submissions about profit movements; those should not be treated as fresh Torry Harris findings or as a universal exclusion of every high-margin company. (PDF pp.9–16, paras 15–21)

The remand was to correct an existing comparable set: The TPO had already completed the search and selected a final set. Excluding the identified companies did not require repeating that completed exercise in this case. The practical task was to apply the Tribunal's directions to the existing set; the judgment does not prohibit every fresh search in every remand. Nor did it decide the leased-line and deduction questions that were not pressed. (PDF p.9, para 14; pp.16–17, paras 22–24)

Source: PDF pp.6–9, paras11–14

## SOURCE & VERIFICATION

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

All 17 original pages read and visually reviewed; SHA-256 verified. Source-based analysis, not current-law clearance.

All five panels re-reviewed against the original on 21 October 2026.

Open cited source rendition

Complete original source and all five note panels checked; original docket identities preserved.

## STATUTORY SCOPE

Only provisions expressly stated in this order are indexed. Subsequent treatment and current law have not been independently verified.

## LATER TREATMENT

Source checked 2026-10-21. Subsequent proceedings and current judicial treatment have not been 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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