

The Pr. Commissioner of Income-Tax-1 & Anr. v. AMD India Private Limited

Income Tax Appeal No. 97 of 2026 c/w Income Tax Appeal No. 96 of 2026

2026:KHC:52885-DB | 2026-09-24

Transfer pricing & section 28(iv): Rs. 200-crore upper turnover filter, Cash PLI (excluding depreciation variance), inclusion of bad-debt provision in operating cost under Rule 10B(1)(e), and deletion of section 28(iv) addition on free-of-cost testing equipment from AE upheld.

Income-tax Act, 1961: sections 28(iv), 92B, 92C, 92CA(3), 127, 143(3), 144C, 250 and 260A | Income-tax Rules, 1962: Rule 10B(1)(e)

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

Assessment years: 2013-14

Common judgment across two CNRs (KAHC010355442026 for ITA 97/2026 and KAHC010355612026 for ITA 96/2026)

The repository filename 20260924_KAHC010355612026.pdf corresponds to the connected appeal CNR (ITA No. 96 of 2026), while the header printed on each page displays the lead appeal CNR: KAHC010355442026 (ITA No. 97 of 2026 c/w ITA No. 96 of 2026). Both appeals challenge the same common ITAT order dated 17.10.2025 for AY 2013-14, and paragraph 20 clarifies that Questions 1 to 7 arose in ITA 97/2026 while Question 8 (deletion of the 12% section 28(iv) markup sustained by CIT(A)) arose across the cross-appeals.

01 FACTS OF THE CASE

For AY 2013-14, AMD India Private Limited (formerly AMD Research and Development Centre India Pvt. Ltd.) declared income of Rs. 21,34,01,430. On reference by the AO, the TPO passed an order dated 31.10.2016 under section 92CA(3) making a transfer pricing adjustment of Rs. 19,63,80,045 (Rs. 10,42,47,726 on software development services and Rs. 9,21,32,319 on receivables). In the assessment order dated 08.02.2017 under section 143(3) read with section 144C, the AO also added Rs. 7,73,50,917 under section 28(iv) as the value of testing equipment and machinery received by the assessee free of cost from its Associated Enterprise (AE). On appeal, the CIT(A) (order dated 31.07.2024) restricted the section 28(iv) addition to a 12% markup on Rs. 7,73,50,917, accepted Cash PLI (excluding depreciation), and directed inclusion of provision for bad and doubtful debts in operating expenses. By common order dated 17.10.2025, the ITAT dismissed the Revenue's appeal and allowed the assessee's appeal by deleting even the 12% section 28(iv) addition.

Source: [Paragraphs 1-9; PDF pp. 3-7](#)

02 DISCUSSION BY THE HON'BLE COURT

The Division Bench rejected all eight questions projected by the Revenue: (1) Upper turnover filter of Rs. 200 crores (paras 12-13): where the TPO applied a lower turnover filter of Rs. 1 crore, applying an upper turnover filter of Rs. 200 crores to exclude giant companies (Persistent Systems Ltd., L&T Infotech Ltd., Mindtree Ltd.) under FAR analysis is squarely covered against the Revenue by Sap Labs India Pvt. Ltd. v. ITO, ITA No. 10 of 2011 (decided 28.08.2026); (2) Cash PLI / depreciation exclusion (paras 15-16): because the assessee's depreciation cost in the software development segment was 5.72% against the comparables' average of 4.05% due to variations in asset types, technology and investment levels, excluding depreciation to compute Cash PLI is covered against the Revenue by PCIT v. Novell Software Development India (P) Ltd., (2021) 126 taxmann.com 29 (Kar); (3) Provision for bad and doubtful debts (paras 17-18): absent evidence that the provision was an extraordinary item, treating provision for bad and doubtful debts as a normal operating expense under Rule 10B(1)(e) is covered by PCIT v. Business Process Outsourcing India Pvt. Ltd. (Kar); and (4) Section 28(iv) addition on free-of-cost testing equipment (paras 19-21): the testing equipment was supplied by the AE solely to test software developed for the AE, title remained with the AE, the assets were not capitalised or depreciated by the assessee, and the equipment had to be re-exported or scrapped after testing, yielding no taxable benefit under section 28(iv), as held in PCIT v. Sony India Software Centre (P) Ltd., (2025) 177 taxmann.com 206 (Kar).

Source: [Paragraphs 10-21; PDF pp. 7-14](#)

03 JUDICIAL DECISION

Holding that no substantial question of law arose on any of the issues raised in either appeal, the High Court dismissed both ITA No. 97 of 2026 and ITA No. 96 of 2026 at the admission stage.

Source: [Paragraphs 21-22; PDF pp. 14-15](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee (AMD India Private Limited). Both Revenue appeals (ITA Nos. 97 and 96 of 2026) were dismissed, affirming the transfer pricing reliefs and the complete deletion of the Rs. 7,73,50,917 section 28(iv) addition.

Source: [Paragraphs 20-22; PDF pp. 14-15](#)

05 AKHB REVIEW POINT

AKHB analysis: where an overseas AE loans specialised testing hardware or prototypes free of cost to an Indian captive R&D / software centre, maintain customs/import documentation and fixed-asset register disclosures showing that legal ownership remains with the AE, no depreciation is claimed in India, the equipment is used exclusively to validate deliverables for the AE, and the items are contractually returnable or scrap-accountable to the AE—completely precluding a section 28(iv) benefit addition under Sony India Software Centre and AMD India.

Source: [AKHB analysis based on paragraphs 12-21 / PDF pp. 9-14](#)

SOURCE & VERIFICATION

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

Fifteen-page official High Court of Karnataka common judgment PDF (2026:KHC:52885-DB); paragraphs 1-22 span PDF pages 1-15.

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 15-page official High Court of Karnataka PDF read and verified. Original bytes match SHA-256 1191b78ef364401528bb9f6fe639c31e619cd5b6f71b64987code86bbab2708d.

STATUTORY SCOPE

Applies sections 28(iv), 92B, 92C, 92CA(3) and 260A of the Income-tax Act, 1961 read with Rule 10B(1)(e) of the Income-tax Rules, 1962 for AY 2013-14. Income-tax Act, 2025 equivalence is not verified.

LATER TREATMENT

Source checked 2026-10-16. Full judgment checked. Follows coordinate-bench precedents in Sap Labs India Pvt. Ltd. v. ITO, ITA No. 10 of 2011 (decided 28.08.2026), PCIT v. Novell Software Development India (P) Ltd., (2021) 126 taxmann.com 29 (Kar), PCIT v. Business Process Outsourcing India Pvt. Ltd., (2018) taxcorp (DT) 73195 (Kar), and PCIT v. Sony India Software Centre (P) Ltd., (2025) 177 taxmann.com 206 (Kar). 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.

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