



CNR: KAHC010002852021

NC: 2026:KHC:50875-DB
ITA No. 36 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

INCOME TAX APPEAL NO. 36 OF 2021

BETWEEN:

1. THE PR. COMMISSIONER OF INCOME TAX, CIT(A)
5TH FLOOR, BMTC BUILDING,
80 FEET ROAD, KORMANGALA,
BENGALURU-560095.
2. THE DEPUTY COMMISSIONER OF INCOME-TAX,
CIRCLE-1 (1)(1), 2ND FLOOR,
BMTC BUILDING, 6TH BLOCK,
80 FEET ROAD, KORAMANGALA,
BENGALURU-560095.

...APPELLANTS

(BY SRI. Y V.RAVI RAJ, ADVOCATE)

AND:

M/S. APPLIED MATERIALS INDIA PVT. LTD.,
UNIT 5, 3RD FLOOR, EXPLORER BUILDING,
INTERNATIONAL TECH PARK,
WHITE FILED,
BENGALURU-560001.
PAN: AAECA2635C.

...RESPONDENT

(BY SRI. P.D. ANKUR, ADVOCATE FOR
SRI. K.R. VASUDEVAN, ADVOCATE)

THIS ITA / INCOME TAX APPEAL UNDER SEC.260-A OF
INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED

Digitally signed
by AASEEFA
PARVEEN

Location:
HIGH COURT
OF
KARNATAKA



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13.05.2020 PASSED IN IT(TP)A NO.2687/BANG/2017, FOR THE ASSESSMENT YEAR 2013-2014 PRAYING TO FORMULATE THE SUSTANTIAL QUESTIONS OF LAW STATED ABOVE AND ALLOW THE APPEAL AND SET ASIDE THE ORDERS PASSED BY THE INCOME TAX APPELLATE TRIBUNAL, BENGALURU IN IT(TP)A NO.2687/BANG/2017 DATED 13.05.2020 FOR ASSESSMENT YEAR 2013-2014 ANNEXURE-D AND CONFIRM THE ORDER OF THE DRP CONFIRMING THE ORDER PASSED BY THE DEPUTY COMMISSIONER OF INCOME TAX, CIRCLE-1(1)(1), BENGALURU.

THIS APPEAL, COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

ORAL JUDGMENT

(PER: HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA)

Heard Sri.Y.V.Raviraj learned standing counsel for the appellants as well as learned Senior counsel Sri.K.R.Vasudevan who represents the respondent.

2. This appeal is directed against the orders passed by the Income-Tax Appellate Tribunal, Bengaluru in IT(TP)A No.2687/Bang/2017 dated 13.05.2020.



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3. On hearing both sides, the appeal was admitted for consideration of the following substantial questions of law:

1. *"Whether, on the facts and in the circumstances of the case and law, the Tribunal is right in directing Transfer Pricing Officer to exclude even when the Transfer Pricing Officer had chosen comparable's in accordance with Rule 10B and after satisfying required tests prescribed under the Act?"*
2. *Whether, on the facts and in the circumstances of the case and law, the Tribunal is right in directing Transfer Pricing Officer to exclude Mind Tree Ltd, Persistent Systems Ltd and Larsen and Tourbo Ltd Persistent Systems Pvt.Ltd and Larsen & Tourbo Infotech Ltd as comparable's by holding that they are functionally dissimilar by following its earlier order without considering the findings and materials bought on record by TPO for computation of ALP which is in accordance with parameters set out in section 92 of the Act and Rule 10B as well?"*
3. *Whether on the facts and in circumstances of the case, the Tribunal's order can be said as perverse in nature as Tribunal has ignored Rule 10B while directing TPO to exclude or include certain comparable's"?*



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4. On hearing both the learned counsel, the core question that arises for consideration as per the substantial questions of law formulated is whether the Tribunal erred in directing Transfer Pricing Officer to exclude Mindtree Limited, Persistent Systems Ltd., and Larsen and Toubro Ltd as comparables by giving observations in that regard.

5. Having gone through the entire material that is brought on record we are of the view that the Tribunal did not err in exclusion of the aforementioned comparables. The reasons given are proper and does not warrant any interference. So far as the Mindtree Limited is concerned, the opinion of the Tribunal that Mindtree Limited is not a comparable with that of the capital services provided by the assessee on the ground that the Mindtree Limited carries out Research and Development activities and has created huge intangibles. Thus, we do not find any reason to interfere with the findings that the assessee company is



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functionally not similar with that of the Mindtree Limited. So far as the Persistent Systems Ltd is concerned, the Persistent Systems Ltd cannot be compared with assessee company because the assessee company does not earn income from royalty fee and is not engaged in development of products as that of Persistent Systems Ltd. Therefore, the Tribunal rightly observed that this comparable is liable to be excluded.

6. Coming to Larsen and Toubro Infotech Ltd, the functions performed by the assessee company is dissimilar to the Larsen and Toubro Infotech Ltd as per the material produced before us. Therefore, the limited functions performed by the assessee cannot be compared with Larsen and Toubro Infotech Ltd as the same is a full fledged Software Development Service. No additional facts or circumstances are brought before us so as to hold that the findings given by the Tribunal regarding the comparables as mentioned supra are perverse and



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therefore, there requires interference by this Court exercising appellate jurisdiction. Hence, the substantial questions of law taken up for consideration are answered in favour of the assessee and against the appellant.

7. Thus, the ultimate finding is that the Tribunal's order cannot be said to be perverse or against the provision of the IT Act or Rules framed thereunder. Hence, we hold that the appeal deserves to be dismissed.

Resultantly, the appeal is dismissed.

**Sd/-
(S.G.PANDIT)
JUDGE**

**Sd/-
(DR.CHILLAKUR SUMALATHA)
JUDGE**

DS
CT:TSM
List No.: 1 Sl No.: 23