



CNR: KAHC010002872021

NC: 2026:KHC:50743-DB
ITA No. 22 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. 22 OF 2021

BETWEEN:

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

...APPELLANTS

(BY SRI. Y. V. RAVIRAJ, ADVOCATE)

AND:

M/S. SYNAMEDIA INDIA PVT. LTD.,
(FORMERLY KNOWN AS CISCO VIDEO
TECHNOLOGIES INDIA PVT. LTD.,)
BLOCK 9A AND 9B PRITECH PARK,
SURVEY NO.51-64/4,
SARJAPUR OUTER RING ROAD,
BELLANDUR VILLAGE,
BENGALURU-560103.
PAN: AACCN1140K

...RESPONDENT

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

Digitally signed
by AASEEFA
PARVEEN

Location: HIGH
COURT OF
KARNATAKA



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THIS INCOME TAX APPEAL IS FILED UNDER SEC.260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 06.02.2020 PASSED IN IT(TP)A NO.184/BANG/2017, FOR THE ASSESSMENT YEAR 2012-2013 PRAYING TO FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE AND ALLOW THE APPEAL AND SET ASIDE THE ORDER PASSED BY THE INCOME TAX APPELLATE TRIBUNAL, BENGALURU IN IT(TP)A NO.184/BANG/2017 DATED 06.02.2020 FOR ASSESSMENT YEAR 2012-2013 ANNEXURE-D AND CONFIRM THE ORDER OF THE DRP CONFIRMING THE ORDER PASSED BY THE ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE-2(1)(1), BENGALURU.

THIS APPEAL, COMING ON FOR ADMISSION, 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 MR. JUSTICE S.G.PANDIT)

The above appeal filed by the appellants-revenue questioning the order dated 06.02.2020 passed by the Income Tax Appellate Tribunal, Bengaluru (for short ITAT) in IT(TP)A No.184/Bang/2017 (Annexure-D) for the assessment year 2012-2013 was admitted by this Court on 15.04.2021 to examine the following substantial questions of law:



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- (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 Persistent Systems Ltd and Larsen and Tourbo Ltd Persistent Systems Pvt. Ltd and Larson & 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?*

2. Heard learned counsel Sri.Y.V.Raviraj for appellants-revenue and learned counsel Ms.Ankur.P.D for learned counsel Sri.K.R.Vasudevan for the respondent-assessee. Perused the entire appeal papers.

3. At the outset it is to be noted that this Court vide judgment dated 28.08.2026 in ITA No.10/2011 and connected appeals in **Sap Labs India Private Limited**



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vs. The Income Tax Officer, on consideration of decisions of Hon'ble Apex Court on transfer pricing has arrived at the following conclusion which reads as follows:

- (i) *The Court concludes that Chapter X of the Income-tax Act, 1961 constitutes a self-contained code governing transfer pricing, providing a complete statutory framework for determination of the Arm's Length Price (ALP), maintenance of documentation, and assessment of international transactions.*
- (ii) *The initial burden of determining the ALP and maintaining the prescribed documentation rests upon the taxpayer, while the Transfer Pricing Officer can interfere with the taxpayer's determination only upon satisfaction of the conditions stipulated under Section 92C(3) of the Act.*
- (iii) *The selection or exclusion of comparables is essentially a factual and data-driven exercise, and the TPO cannot reject the taxpayer's comparables merely to substitute them with a standard departmental set. Such determination must strictly conform to the requirements of Rule 10B of the Rules.*
- (iv) *The Tribunal's adoption of an upper turnover filter of Rs.200 crores is rational and legally sustainable, as turnover, brand value, economies of scale, bargaining power and ownership of intangibles materially influence comparability and profitability.*
- (v) *An RPT filter of 15% is ordinarily preferable, though a higher threshold of 20% or 25% may be adopted only upon recording a specific finding that sufficient comparable companies satisfying the lower threshold are unavailable.*
- (vi) *Foreign exchange gain or loss can be treated as an operating item only when it has a direct nexus with the international transaction. Where such*



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nexus is absent, it cannot form part of the operating revenue or operating cost.

- (vii) The burden of proof varies according to the nature of the dispute. While the taxpayer bears the initial burden of substantiating the ALP, once the TPO rejects the taxpayer's determination and substitutes comparables, the burden shifts to the TPO to justify such inclusion or exclusion.*
- (viii) There is no legal prohibition against inclusion or exclusion of comparables at the appellate stage, provided the subsequently relied upon data is reliable and the proposed comparables satisfy the requirements of the Act and the Rules.*
- (ix) The tolerance of $\pm 5\%$ prescribed under Section 92C of the Act is merely a permissible variation and not a standard deduction, and transfer pricing adjustment becomes necessary whenever the variation exceeds the prescribed statutory limit.*
- (x) Working Capital Adjustment is a comparability adjustment and not a selection filter, and its grant depends entirely upon the facts of each case. Findings on such adjustment, like the selection of comparables, ordinarily remain findings of fact and do not warrant interference unless shown to be contrary to the Act or vitiated by perversity.*

4. In the instant case, the Tribunal placing reliance on the decision of Evolving Systems Network (I) P. Ltd. in IT(TP)A No.216/Bang/2017 for the assessment year 2012-2013 excluded Persistent Systems Ltd and Larson & Turbo Infotech Ltd., from 10 comparable companies. The appellant-revenue has failed to place material on record to



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establish how the Tribunal could not have excluded those two comparables and the appellant-revenue has also failed to point out the perversity in the order of the Tribunal. The Tribunal has arrived at a factual finding and the appellant-revenue has failed to demonstrate how the exclusion is contrary to the settled position of law.

5. Thus we are of the opinion that the substantial questions of law are to be answered in favour of respondent-assessee and against appellants-revenue.

Accordingly, the appeal stands disposed of.

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

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

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