



CNR: KAHC010355442026

NC: 2026:KHC:52885-DB
ITA No. 97 of 2026
C/W ITA No. 96 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

INCOME TAX APPEAL NO.97 OF 2026

C/W

INCOME TAX APPEAL NO.96 OF 2026

IN ITA NO.97/2026

BETWEEN:

1. THE PR. COMMISSIONER OF INCOME-TAX-1,
5TH FLOOR, BMTc BUILDING,
80 FEET ROAD, KORMANGALA,
BENGALURU-560 095.
2. THE DEPUTY COMMISSIONER OF
INCOME-TAX CIRCLE-1(1)(1),
2ND FLOOR, BMTc BUILDING,
80 FEET ROAD, KORMANGALA,
BENGALURU-560 095.

...APPELLANTS

(BY SRI. E.I. SANMATHI, ADVOCATE A/W
MR. MATHEW NIRMAL, ADVOCATE)

AND:

AMD INDIA PRIVATE LIMITED
(FORMERLY KNOWN AS AMD
RESEARCH AND DEVELOPMENT
CENTRE INDIA PVT. LTD.,)
NO.102 & 103, EPIP WHITEFIELD,
BENGALURU-560 066.

...RESPONDENT

(BY SRI. TATA KRISHNA, ADVOCATE)

Digitally signed
by C K LATHA
Location: High
Court of
Karnataka



CNR: KAHC010355442026

NC: 2026:KHC:52885-DB
ITA No. 97 of 2026
C/W ITA No. 96 of 2026

THIS ITA IS FILED UNDER SECTION 260A OF THE INCOME TAX ACT, PRAYING TO ALLOW THE APPEAL AND SET ASIDE THE ORDERS PASSED BY THE INCOME-TAX APPELLATE TRIBUNAL, BENGALURU IN IT(TP)A NO.2031/BANG/2024 DATED 17.10.2025 FOR ASSESSMENT YEAR 2013-14 ANNEXURE-A CONFIRMING THE ORDER OF THE APPELLATE COMMISSIONER AND CONFIRM THE ORDER PASSED BY THE DEPUTY COMMISSIONER OF INCOME TAX, CIRCLE-1(1)(1), BENGALURU.

IN ITA NO.96/2026

BETWEEN:

1. THE PR. COMMISSIONER OF INCOME-TAX-1,
5TH FLOOR, BMTC BUILDING,
80 FEET ROAD, KORMANGALA,
BENGALURU-560 095.
2. THE DEPUTY COMMISSIONER OF
INCOME-TAX CIRCLE-1(1)(1),
2ND FLOOR, BMTC BUILDING,
80 FEET ROAD, KORMANGALA,
BENGALURU-560 095.

...APPELLANTS

(BY SRI. E.I. SANMATHI, ADVOCATE A/W
MR. MATHEW NIRMAL, ADVOCATE)

AND:

AMD INDIA PRIVATE LIMITED
(FORMERLY KNOWN AS AMD
RESEARCH AND DEVELOPMENT
CENTRE INDIA PVT. LTD.,)
NO.102 & 103, EPIP WHITEFIELD
BENGALURU- 560 066.

...RESPONDENT

(BY SRI. TATA KRISHNA, ADVOCATE)



CNR: KAHC010355442026

NC: 2026:KHC:52885-DB
ITA No. 97 of 2026
C/W ITA No. 96 of 2026

THIS ITA IS FILED UNDER SECTION 260A OF THE INCOME TAX ACT 1961, PRAYING TO ALLOW THE APPEAL AND SET ASIDE THE ORDERS PASSED BY THE INCOME TAX APPELLATE TRIBUNAL, BENGALURU, IN IT(TP) A NO.1858/BANG/2024 DATED 17.10.2025 FOR ASSESSMENT YEAR 2013-14 ANNEXURE A AND CONFIRM THE ORDER OF THE APPELLATE COMMISSIONER CONFIRMING THE ORDER PASSED BY THE DEPUTY COMMISSIONER OF INCOME TAX CIRCLE-1(1)(1), BENGALURU.

THESE APPEALS, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MRS. JUSTICE K.S. HEMALEKHA

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The Revenue has filed the present appeals under Section 260A of the Income Tax Act, 1961 [**the Act**] impugning a common order dated 17.10.2025 passed by the learned Income Tax Appellate Tribunal [**ITAT**] in IT(TP) A No.2031/Bang/2024 and IT(TP) A No.1858/Bang/2024 for Assessment Year [**AY**] 2013-14. The appeals before the learned ITAT were cross-appeals preferred by the Assessee as well as the Revenue against the order dated 31.07.2024 passed by the learned Commissioner of Income Tax



CNR: KAHC010355442026

NC: 2026:KHC:52885-DB
ITA No. 97 of 2026
C/W ITA No. 96 of 2026

(Appeals)-12, Bengaluru [**CIT(A)**] under Section 250 of the Act. ITA No.97/2026 arises from the Revenue's appeal before the learned ITAT and ITA No.96/2026 arises from the Assessee's appeal.

2. The Assessee company had filed its return of income for AY 2013-2014 on 27.11.2013 declaring an income of ₹ 21,34,01,430. The said return was selected for scrutiny and notice under Section 143(2) was served on the Assessee. In the meanwhile, the proceedings were transferred from the Assessing Officer [**AO**] in Hyderabad to the AO in Bangalore in terms of an order dated 24.11.2016 passed under Section 127 of the Act, and a fresh notice was issued to the Assessee.

3. The Assessee had reported that it had entered into international transactions with its Associated Enterprise [**AE**] covered under Section 92B of the Act. Accordingly, the AO referred the matter to the learned Transfer Pricing Officer [**TPO**] for determining the Arm's Length Price [**ALP**] of the international transactions with its AE.



CNR: KAHC010355442026

NC: 2026:KHC:52885-DB
ITA No. 97 of 2026
C/W ITA No. 96 of 2026

4. The learned TPO passed an order dated 31.10.2016 under Section 92CA(3) of the Act, making a transfer pricing adjustment of ₹ 19,63,80,045 as under :

Sl. No.	International transaction	Arm's Length Price (Rs.)	Adjustment (Rs.)
1	Provision of SDS	1,834,990,813	104,247,726
2	Receivables	92,132,319	92,132,319
Total			196,380,045

5. Based on the said directions, the AO passed an order dated 08.02.2017 under Section 143(3) read with Section 144C of the Act. Apart from making an addition on the basis of ALP as determined by the learned TPO, the AO also made an addition of ₹ 7,73,50,917 under Section 28 (iv) of the Act. The said addition was premised on the basis that certain equipment and machinery received by the Assessee from its AE free of charge would be assessable as income in the hands of the Assessee. The AO reasoned that receiving the said assets free of cost was a benefit or perquisite with monetary value, arising from business, and thus required to be included in the Assessee's income chargeable to tax.



CNR: KAHC010355442026

NC: 2026:KHC:52885-DB
ITA No. 97 of 2026
C/W ITA No. 96 of 2026

6. The Assessee appealed the assessment order before the CIT(A). The said proceedings culminated in an order dated 31.07.2024. Insofar as the addition of amount of ₹ 7,73,50,917 on account of fixed assets received by the Assessee from its AE is concerned, the CIT(A) faulted the AO in making addition of the entire amount. The learned CIT(A) held that the AO ought to have made an addition to the extent of 12% of the value of the fixed assets, that is 12% of ₹ 7,73,50,917, as income under Section 28(iv) of the Act as the benefit derived by the Assessee would be limited to the said markup.

7. The Assessee had also claimed that the Profit Level Indicator [PLI] ought to have been computed after excluding depreciation. The Assessee contended that the learned TPO had used comparables where the depreciation charged was significantly lower due to differences in assets; therefore, to make a proper comparison, the element of depreciation ought to have been excluded. Accordingly, it claimed that the PLI should be the cash PLI. The learned CIT(A) accepted the said contention following an earlier decision in the Assessee's case for AY 2010-11.



CNR: KAHC010355442026

NC: 2026:KHC:52885-DB
ITA No. 97 of 2026
C/W ITA No. 96 of 2026

8. The learned TPO also added interest on receivables, and the Assessee contested the addition. The learned CIT(A), following the earlier decision in the Assessee's case, directed that interest be charged only on the receivables that were not included in the working capital adjustment on the basis of LIBOR+300 basis points. The grounds raised by the Assessee regarding the various comparables selected by the learned TPO were partly allowed.

9. The learned ITAT partly allowed the Assessee's appeal and dismissed the Revenue's appeal. As noted above, this has led the Revenue to file the present appeals.

10. The Revenue has projected the following questions for consideration :

"1. Whether on the facts and in the circumstances of the case, the Tribunal's order can be said as perverse in nature in directing TPO for exclusion of companies from the set of comparables selected by the Transfer pricing officer by following earlier decision ignoring that the TPO had chosen comparables as per parameters set out in Rule 10B?

2. Whether on the facts and in circumstances of the case, the Tribunal was correct in applying an upper turnover filter selectively to certain comparables while retaining other comparables having turnover significantly exceeding Rs.200 crores, thereby rendering the comparability analysis internally inconsistent?



CNR: KAHC010355442026

NC: 2026:KHC:52885-DB
ITA No. 97 of 2026
C/W ITA No. 96 of 2026

3. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in demanding comparability standards that may itself defeat the purpose of law relating to determination of ALP under the Income Tax Act?
4. Whether on the facts and in the circumstances of the case, the Tribunal order can be said as perverse in nature in accepting contention of assessee that either cash PLI should be adopted or depreciation adjustment should be granted which was rightly rejected by TPO?
5. Whether on the facts and in circumstances the Tribunal was right in law in treating provisions for bad and doubtful debts as operating expenses for the purpose of computing the profit level indicator under Rule 10B(1)(e), without examining whether such provision has a direct nexus with revenue generating activity of the assessee?
6. Whether on the facts and in the circumstances of the case, the Tribunals order can be said as perverse in nature in accepting contention of assessee that provision for bad and doubtful debts is to be treated as operating expenses while computing margin?
7. Whether the ITAT is right in law in directing computation of profit level indicator (PLI) on a cash basis by excluding depreciation form operating cost, when Rule 10B(1)(e) mandates comparison of net operating profit margin and does not recognize any concept of "Cash PLI"?
8. Whether the Tribunal is correct in law in deleting the addition made under section 28(iv) of the act by holding that no benefit accrued to the assessee form the use of assets received free of cost from its Associated Enterprises, ignoring that such assets enabled the assessee to carry on its business activities and derive economic advantages without incurring corresponding expenditure?"



CNR: KAHC010355442026

NC: 2026:KHC:52885-DB
ITA No. 97 of 2026
C/W ITA No. 96 of 2026

11. The learned counsel appearing for the Revenue fairly stated that the first question is a general question and covered under the subsequent questions.

12. Question No.2 relates to the use of a turnover filter exceeding ₹ 200 crores. The learned ITAT had upheld the exclusion of Persistent Systems Ltd., Larsen & Toubro Infotech Ltd. and Mindtree Ltd. from the set of comparables, *inter alia*, on the ground that their turnover exceeded ₹ 200 crores. The learned TPO had used a filter of a minimum turnover of ₹ 1 Crore but had not used any filter regarding the maximum turnover. The Act and the Rules do not specify any turnover filter to be used. However, it is hard to dispute that, for the purposes of determining the ALP by the Transactional Net Margin Method, it is relevant to select entities that are otherwise comparable on the basis of FAR¹ analysis. A company's size would indisputably be relevant when selecting an appropriate comparable. Concededly, the issue of whether a turnover filter ought to be used for determining an appropriate comparable is covered against the Revenue by a recent decision of

¹ Functions, Assets, and Risks



CNR: KAHC010355442026

NC: 2026:KHC:52885-DB
ITA No. 97 of 2026
C/W ITA No. 96 of 2026

this Court in **Sap Labs India Pvt. Ltd. v. The Income Tax Officer and other connected matters**² decided on 28.08.2026.

13. In view of the above, we find no infirmity in the impugned order considering ₹ 200 crores as an appropriate turnover filter and excluding the said companies, whose turnover exceeds the said limit as comparables for determining the ALP.

14. Question No.3 is again couched in general language and no such specific question need be answered.

15. Question Nos.4 and 7 as projected relate to the use of cash PLI. Concededly, the said questions are also covered against the Revenue by the decision of this Court in **PCIT vs Novell Software Development India (P) Ltd**³. As noted before, the said question arises from excluding the element of depreciation from the PLI. The Assessee had pointed out that its depreciation cost in the software development segment was around 5.72%, as compared to an average of 4.05% in the case of the comparable companies. The learned ITAT accepted that there was a significant difference in

² ITA No. 10 of 2011

³ (2021) 126 taxmann.com 29 (Karnataka)



CNR: KAHC010355442026

NC: 2026:KHC:52885-DB
ITA No. 97 of 2026
C/W ITA No. 96 of 2026

depreciation cost due to variations in asset types, technology, and investment levels. Therefore, it considered it apposite to exclude the said element of depreciation when comparing the real value of the PLIs.

16. Since the issue is squarely covered by the decision of this Court in **PCIT** (*supra*), no substantial question of law arises for consideration of this Court.

17. Question Nos. 5 and 6: The learned TPO had excluded the provision for bad and doubtful debts from the operating expenses while computing the PLI, which was contested by the Assessee. There is no provision in the Rules for excluding the provision for bad and doubtful debts from the operating expenses. The same may be excluded only in case where the provision for bad and doubtful debts in a given year represents an extraordinary item. The learned TPO was of the view that unless it was found that the provision for bad and doubtful debts is made each year consistently, the same ought to be excluded. However, the learned CIT(A), following the decision of the learned ITAT for the earlier year, directed that the provision for bad and doubtful debts be



CNR: KAHC010355442026

NC: 2026:KHC:52885-DB
ITA No. 97 of 2026
C/W ITA No. 96 of 2026

treated as a part of the operating cost. We do not find material to substantiate that the provision for bad and doubtful debts was an extraordinary item. The learned ITAT dismissed the Revenue's appeal in this regard following its earlier decision, whereby the ITAT had held that the provision for bad and doubtful debts is a normal business expense linked to sales. The learned ITAT also noted that a similar issue had been raised in the case of **Principal CIT vs Business Process Outsourcing India Private Limited**⁴ where the decision of the Tribunal holding that the provision for bad and doubtful debts should be considered as part of the operating expenditure was confirmed by this Court and the Revenue's appeal was dismissed as not giving rise to any substantial question of law.

18. In our view, we find no infirmity with the decision of the learned ITAT in the given facts. Thus, no substantial question of law arises in this regard.

19. Question No.8 relates to the addition made by the AO under Section 28 (iv) of the Act in regard to fixed assets provided free of cost. The Assessee filed submissions explaining that the fixed

⁴ (2018) taxcorp (DT) 73195 (HC Karnataka)



CNR: KAHC010355442026

NC: 2026:KHC:52885-DB
ITA No. 97 of 2026
C/W ITA No. 96 of 2026

assets received from the related entity were not part of its income. It claimed that during the financial year ended 31.03.2013, the Assessee received certain capital goods, which were duly disclosed but not included as assets in the financial statements. The capital goods comprised testing equipment for testing the software developed by the Assessee for supply to its AE. Thus, the goods were essentially for the use of the AE. The Assessee also explained that it never acquired any title or ownership of those capital goods, that they did not form part of its capital assets. The Assessee had not claimed any depreciation on these assets. It also claimed that, upon completion of testing for its AE, the equipment is required to be re-exported to the AE or otherwise sold as scrap, depending on its useful life. In either case, it did not derive any benefit. It also claimed that the said capital goods were provided by the AE only to deliver services to related parties. Concededly, the said income also did not form part of the margin which was considered for determining the transfer pricing adjustment. The said issue is also covered against the Revenue by the decision of this Court in **Principal Commissioner of Income-tax vs Sony**



CNR: KAHC010355442026

NC: 2026:KHC:52885-DB
ITA No. 97 of 2026
C/W ITA No. 96 of 2026

India Software Centre (P) Ltd.⁵. In that case, this Court found no infirmity with the decision of the learned CIT(A) and the learned ITAT in deleting the additions made on account of the value of the equipment received by the Assessee free of cost, principally on the basis that the equipment belonged to the AE and had been used to ensure that the software developed met the parameters meant for the equipment. In our view no substantial question of law arises in this regard.

20. We also note that the Revenue has raised the same questions of law in ITA No.96/2026, as raised in ITA No.97/2026. Question Nos.1 to 7 do not arise in the said appeal, as the relief to the Assessee on those issues was sustained by the learned ITAT while dismissing the Revenue's appeal. Insofar as Question No.8 is concerned, the learned ITAT had, in the Assessee's appeal, deleted the addition of 12% of ₹ 7,73,50,917 sustained by the learned CIT(A).

21. For the reasons stated above, no substantial question of law arises in that regard.

⁵ (2025) 177 taxmann.com 206 (Karnataka)



CNR: KAHC010355442026

NC: 2026:KHC:52885-DB
ITA No. 97 of 2026
C/W ITA No. 96 of 2026

22. In view of the above, the present appeals are dismissed.

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(K.S. HEMALEKHA)
JUDGE

CKL
List No.: 1 Sl No.: 1