



CNR: KAHC010565142026

NC: 2026:KHC:52836-DB
ITA No. 153 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. 153 OF 2026

BETWEEN:

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

...APPELLANTS

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

AND:

1. ATMECS TECHNOLOGIES PVT. LTD.
2ND AND 3RD FLOOR
LANCO HILLS
99LH, MANIKONDA
HYDERABAD - 500 089
TELANGANA

...RESPONDENT

THIS ITA IS FILED UNDER SECTION 260A OF THE INCOME
TAX ACT, 1961, PRAYING TO ALLOW THE APPEAL AND SET ASIDE

Digitally
signed by
AMBIKA H B

Location:
High Court
of Karnataka



CNR: KAHC010565142026

THE ORDERS PASSED BY THE INCOME-TAX APPELLATE TRIBUNAL, BENGALURU IN IT(TP)A NO.1681/Bang/2024 DATED 02.06.2025 FOR ASSESSMENT YEAR 2020-2021 ANNEXURE-A AND CONFIRM THE ORDER OF THE DRP CONFIRMING THE ORDER PASSED BY THE INCOME TAX OFFICER, WARD 1(1)(1), BENGALURU & ETC.

THIS APPEAL, COMING ON FOR ORDERS, 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. For the reasons stated in I.A No.1/2026, the delay is condoned and the application is allowed.
2. The Revenue has filed the present appeal under Section 260A of the Income Tax Act, 1961 [**the Act**] impugning an order dated 02.06.2025 [**impugned order**] passed by the learned Income Tax Appellate Tribunal [**ITAT**] in IT(TP)A No.1681/Bang/2024 for the Assessment Year [**AY**] 2020-21.
3. The respondent [**assessee**] had filed its return of income tax for the AY 2020-21 on 05.02.2021 declaring a total income of ₹5,00,90,640/-. The said return was selected for scrutiny. Since



CNR: KAHC010565142026

the assessee had also entered into an international transaction, the Assessing Officer [**AO**] made a reference to the Transfer Pricing Officer [**TPO**]. The learned TPO passed an order dated 08.02.2023 under Section 92CA(3) of the Act making Transfer Pricing Adjustments of ₹16,05,36,917/-. The said adjustments comprised adjustment of amount of ₹9,11,44,667/- in respect of SWD¹ segment and ₹6,93,92,250/- as interest on delayed receivables. The AO passed a draft assessment order under Section 144C of the Act. The assessee filed its objections before the Dispute Resolution Panel [**DRP**], *inter alia*, assailing the transfer pricing adjustments. The assessee contested the decision of the learned TPO rejecting its transfer pricing study and conducting a fresh search for comparables. However, the learned DRP found no merit in the said contention and held that the TPO was justified in rejecting the transfer pricing study and conducting a fresh search for comparables.

4. The learned TPO had included certain entities as comparable which the assessee contended ought to be excluded.

¹ Software Development



CNR: KAHC010565142026

The learned TPO, *inter alia*, rejected the assessee's contention in respect of certain comparables, including those entities that had significantly a larger turn over than the assessee. Based on the directions issued by the learned DRP, the AO passed the final assessment order on 23.07.2004. The assessee appealed the said assessment order before the ITAT, which was partly allowed by the impugned judgment. The ITAT upheld the assessee's contention that a turnover filter was required to be used for selecting the comparables. The ITAT held that in the given facts, an upper turnover filter of ₹200 crores ought to have been applied. Applying the said turnover, the following 9 out of the 17 comparables selected by the TPO were:

- (i) Mindtree Limited;
- (ii) Great Software Laboratory Limited;
- (iii) Larsen & Toubro Infotech Limited;
- (iv) Wipro Limited;
- (v) Nihilient Limited;
- (vi) Tata Elxis Limited;
- (vii) Infosys Limited;
- (viii) Tata Consultancy Services Limited; and
- (ix) Cybage Software Limited

5. The Revenue has filed the present appeal assailing the said order and projecting the following questions for consideration:

1. Whether in the facts and circumstances of the case and in law, the Tribunal is right in excluding



CNR: KAHC010565142026

certain comparables by introducing new comparability criteria at the appellate stage, when such criteria were neither part of the assessee's transfer pricing study nor documented in accordance with Rule 10D of the Income-tax Rules, 1962, when determination of arm's length price as per Section 92C(3) can only be made as per the material available with the TPO?

2. Whether in the facts and circumstances of the case and in law, the Tribunal is right in introducing and applying an upper turnover filter of Rs. 200 crore without demonstrating, in terms of Rule 10B(3), that turnover materially affects profitability?
3. Whether in the facts and circumstances of the case and in law, the Tribunal is right in applying an upper turnover filter without applying a corresponding lower turnover filter, when turnover was treated as a material comparability factor?
4. Whether in the facts and circumstances of the case and in law, the Tribunal is justified in excluding comparables solely on turnover grounds, when the determination of arm's length price as per Section 92C(3) can be made only based on the material available with TPO, in the absence of any analysis in the assessee's TP documentation under Rule 10D demonstrating the material impact of turnover on profitability,?
5. Whether in the facts and circumstances of the case, the Tribunal has erred in law in shifting the statutory burden under Rules 10B and 10D from the assessee to the Revenue by permitting exclusion of comparables based on new grounds not substantiated in the transfer pricing documentation?
6. Whether in the facts and circumstances of the case and in law, the Tribunal is right in its selective acceptance of new comparability factors



CNR: KAHC010565142026

at the appellate stage, without requiring complete disclosure and analysis under Rule 10D, is legally sustainable as per Section 92D read with Rule 10D and determination of arm's length price as per Section 92C(3)?

7. Whether in the facts and circumstances of the case and in law, the Tribunal is right in excluding certain comparables on the ground of high turnover, while simultaneously retaining the company having higher turnover than the taxpayer and as such the inconsistent application of the turnover filter renders the finding of the Tribunal perverse?
8. Whether in the facts and circumstances of the case and in law, the Tribunal is right in accepting new comparability factors, without directing a comprehensive re-evaluation of the entire comparable set resulting in selective exclusion without holistic reassessment leading to an internally inconsistent arm's length analysis rendering the order of the Tribunal perverse?
9. Whether in the facts and circumstances of the case and in law, the Tribunal is right in introducing a stricter degree of comparability only for selected companies, which has altered the foundational comparability framework adopted by both the assessee and the TPO, without recording reasons for such departure and such selective alteration of the analytical framework has rendered the findings unsustainable and perverse?

6. However, the learned counsel appearing for the Revenue submitted that the only question required to be considered is



NC: 2026:KHC:52836-DB
ITA No. 153 of 2026

CNR: KAHC010565142026

whether, in the given facts, ITAT was right in introducing an upper turnover filter of ₹200 crore for selection of comparables.

7. Concededly the said question of law is covered in favour of the assessee by the decision of the Co-ordinate Bench of this Court in **Sap Labs India Private Limited vs. The Income Tax Officer**: ITA No.10/2011 and connected appeals decided on 28.08.2026.

8. Accordingly, the appeal is dismissed.

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(K.S. HEMALEKHA)
JUDGE

AHB
List No.: 2 Sl No.: 11