HC-KAR

NC: 2026:KHC:60253-DB
ITA No. 451 of 2013

CNR: KAHC010374112013

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF OCTOBER, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

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

INCOME TAX APPEAL NO. 451 OF 2013

BETWEEN:

1. THE COMMISSIONER OF INCOME TAX
C.R. BUILDING
QUEENS ROAD
BANGALORE

2. THE INCOME-TAX OFFICER
CIRCLE - 11(2)
RASHTROTHANA BHAVAN,
NRUPATHUNGA ROAD
BANGALORE

…APPELLANTS

(BY SRI E.I. SANMATHI, ADVOCATE)

AND:

1. M/S. HUAWEI TECHNOLOGIES
INDIA PVT. LTD.
LEVEL-3, LEELA GALLERIA
THE LEELA PALACE
23 AIRPORT ROAD
BANGALORE - 560 008

…RESPONDENT

(BY SRI/SMT. K.K. CHYTHANYA, SENIOR ADVOCATE A/W
SRI AJIT V. GHATIKAR, ADVOCATE FOR
SRI TATA KRISHNA & S. SHARATH, ADVOCATE)

Digitally signed by VEERENDRA KUMAR K M
Location: High Court of Karnataka

CNR: KAHC010374112013

THIS ITA IS UNDER SECTION 260-A OF THE INCOME TAX ACT 1961, PRAYING TO I. FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE II. ALLOW THE APPEAL AND SET ASIDE THE ORDER PASSED BY THE INCOME-TAX APPELLATE TRIBUNAL, BANGALORE IN ITA NO.1338/Bang/2010 DATED 30/04/2013 AND CONFIRM THE ORDER OF DISPUTE RESOLUTION PANEL, CONFIRMING THE ORDER PASSED BY THE INCOME TAX OFFICER, CIRCLE-11(2), BANGALORE & ETC.

THIS APPEAL, COMING ON FOR HEARING, 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 appeal under Section 260A of the Income Tax Act, 1961 [**the Act**], impugning an order dated 30.04.2013 [**impugned order**] passed by the learned Income-Tax Appellate Tribunal, Bengaluru [**Tribunal**] in ITA No.1338/Bang/2010, in respect of Assessment Year [**AY**] 2006-07.

2. The respondent [**Assessee**] had filed the said appeal assailing the Assessment Order dated 24.09.2010 passed by the

Assessing Officer [**AO**] under Section 143(3) read with Section 144C(1) of the Act.

3. The Assessee is engaged in the business of software development and related services. It had filed its return of income for AY 2006-07 declaring its taxable income as nil after claiming deduction under Section 10A of the Act. The Assessee had entered into international transactions. Accordingly, the AO referred the case to the learned Transfer Pricing Officer [**TPO**]. The learned TPO passed an order issuing directions under Section 92CA of the Act recommending Transfer Pricing Adjustment [**TPA**] to the extent of ₹10,82,34,382/-.

4. Pursuant to the said directions, the AO issued the draft Assessment Order on 24.09.2010. The Assessee filed its objections against the said order before the Dispute Resolution Panel [**DRP**]. The DRP disposed of the said objections by an order dated 16.09.2010. Pursuant to the directions issued by the DRP, the AO issued the final assessment order, which was impugned before the learned Tribunal.

5. The learned Tribunal accepted the Assessee's objections to the inclusion of certain companies as comparables for determining the Arm's Length Price [**ALP**] of the international transactions.

6. Aggrieved by the said order, the Revenue has filed the present appeal projecting the following substantial questions of law:

> "1. Whether on the facts and in the circumstances of the case and in law the Tribunal was right in super imposing the decisions of the other benches and the decision of the ITAT while rejecting the comparables ((i) Accel Transmatic Limited, (ii) KALS Information Systems Limited (iii) Lucid Software Limited, and (iv) Tata Elxsi Ltd.,) without appreciating the fact that selection of comparables in a case depends on assessee specific FAR analysis?
>
> 2. Whether on the facts and in the circumstances of the case and in law the Tribunal was correct in holding that Accel Transmatic Limited, and KALS Information Systems Limited cannot be taken as comparables on the ground of functional difference without appreciating the fact it satisfies all the quantitative and qualitative filters applied by the Transfer Pricing Officer while segmental results have been used and recorded a perverse finding?
>
> 3. Whether on the facts and in the circumstances and of the case in law the Tribunal was justified in fixing the related party transaction filtered at 15% of the total revenue without going into the specific facts in the case of the Tax Payer and without adducing the

basis for arriving at such cut-off at 15% and recorded a perverse finding?

4. Whether on the facts and in the circumstances of the case and in law the Tribunal was correct in rejecting M/s. Lucid Software Limited as a comparable by placing reliance on the order in the case of the other assessee passed by the Mumbai ITAT without taking into consideration the finding recorded by the Transfer Pricing Officer for selecting as a comparable and recorded a perverse finding?

5. Whether on the facts and in the circumstances of the case and in law the Tribunal was correct in holding that the expenses excluded from export turnover has to be reduced from total turnover for computing deduction under Section 10A of the Act contrary to the provisions of Section 10A of the Act?

7. This Court, by a judgment dated 10.07.2018 had dismissed the present appeal on the ground that no substantial question of law arise. This Court had also referred to its earlier decision dated 25.06.2018 passed in ITA No.536/2015 c/w ITA No.537/2015, captioned **Prl. Commissioner of Income Tax and another v. M/s. Softbrands India Pvt. Ltd.,** in support of the said view.

8. The Revenue had filed an appeal before the Supreme Court which was tagged along with **SAP Labs India (P) Ltd. v. Income Tax Officer (and other appeals)**[1] and other connected matters.

9. The Supreme Court allowed the appeals by an order dated 19.04.2023 and remanded the appeals, including the present appeal, for fresh consideration of the issues relating to transfer pricing in light of the Supreme Court's observations. Thus, this Court must examine whether the exclusion of the companies as comparables and the use of the Related Party Transaction [**RPT**] filter disregarded the provisions of the Act and the Rules made thereunder.

10. Question No.1 relates to the exclusion of following companies as comparables:

> ((i) Accel Transmatic Limited,
> (ii) KALS Information Systems Limited
> (iii) Lucid Software Limited, and
> (iv) Tata Elxsi Ltd.,

[1] (2023) 454 ITR 121 (SC); (2023) 149 taxmann.com 327 (SC)

11. Question No.2 relates to the exclusion of, Accel Transmatic Limited and KALS Information Systems Limited. And, question No.4 relates to exclusion of M/s Lucid Software Limited, as comparables.

12. Concededly, the exclusion of the aforementioned companies is covered in favour of the Assessee by a recent decision of this Court dated 28.10.2026 passed in ITA No.338/2013, captioned **The Commissioner of Income Tax and another v. M/s Logica Private Limited**.

13. Question No.3 relates to the use of RTP filter at 15% of the total revenue. Concededly, this issue is also covered by the decision of the Co-ordinate Bench of this Court in **SAP Labs India (P) Ltd. v. Income Tax Officer**[2]**.**

14. Question No. 5, as rightly pointed out by the learned counsel for the parties, stands concluded. The Supreme Court's order remanding the appeal is confined to the questions relating to the Transfer Pricing Adjustment.

[2] ITA No.10/2011 decided on 28.08.2026

15. Thus, no substantial question of law arises for consideration of this Court.

16. The appeal is, accordingly, dismissed.

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(K.S. HEMALEKHA)
JUDGE

KMV
List No.: 1 Sl No.: 22