HC-KAR

NC: 2026:KHC:61213-DB
ITA No. 130 of 2026

CNR: KAHC010529662026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF NOVEMBER, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

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

INCOME TAX APPEAL NO.130 OF 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-6(1)(1), BENGALURU,
   2ND FLOOR, BMTC BUILDING,
   80 FEET ROAD, 6TH BLOCK,
   KORMANGALA,
   BENGALURU-560 095.

…APPELLANTS

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MAHALAKSHMI B M
Location: High Court
of Karnataka

(BY SRI. E.I. SANMATHI, ADVOCATE A/W
MR. M. DILIP, ADVOCATE)

AND:

M/S. SAP INDIA PRIVATE LIMITED,
SIXTH FLOOR, RMZ ECOWORLD,
PLOT C1, 8A CAMPUS,
SARJAPUR MARATHAHALLI
OUTER RING ROAD,
DEVARABEESANHALLI,
BANGALORE - 560 103.

…RESPONDENT

THIS ITA IS FILED UNDER SECTION 260A OF THE INCOME TAX ACT, PRAYING TO FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE; ALLOW THE APPEAL AND SET ASIDE THE ORDERS PASSED BY THE INCOME-TAX APPELLATE TRIBUNAL, BENGALURU IN ITA NO.1519/BANG/2024 DATED 17.11.2025 FOR ASSESSMENT YEAR 2020-21 ANNEXURE-A AND CONFIRM THE ORDER OF THE DRP CONFIRMING THE ORDER PASSED BY THE DEPUTY COMMISSIONER OF INCOME TAX CIRCLE-6(1)(1), BENGALURU AND 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. The Revenue has filed the present appeal under Section 260A of the Income Tax Act, 1961 [**the Act**], impugning the order dated 17.11.2025 passed by the learned Income Tax Appellate Tribunal [**Tribunal**] in ITA No.1519/Bang/2024.

2. The respondent [**Assessee**] had filed the said appeal against the Assessment Order dated 18.06.2024 passed by the Assessing Officer [**AO**] under Section 143(3) read with Sections 144C(13) and 144B of the Act for the Assessment Year [**AY**] 2020-21.

3. The Assessee is engaged in the business of selling, licensing, installing and providing maintenance and consultancy services in regard to products of SAP SE, Germany and its subsidiaries in India. The Assessee also provides training services on the said products.

4. The Assessee had entered into a distribution agreement with its Associated Enterprise [**AE**], SAP AG, SAP India, to market a range of SAP products and provide support services to independent customers in India. The AEs had also granted a non-exclusive licence to the Assessee to use, market and sub-licence the software products of SAP AG. In consideration for the same, the Assessee pays royalty to SAP AG for sub-licensing the software and maintenance services provided in respect of the said software.

5. The Assessee had disclosed the international transactions entered into with its AE and the AO made a reference to the Transfer Pricing Officer [**TPO**] for determination of the Arm's Length Price [**ALP**] of those international transactions.

6. The Assessee had furnished its transfer pricing study to establish that its international transactions were at ALP. It had used the Transactional Net Margin Method [**TNMM**] with the operating profit to sales ratio [**OP/OR**] in the distribution segment as the Profit Level Indicator [**PLI**] in TNMM analysis.

7. The learned TPO rejected the transfer pricing study submitted by the Assessee on the ground that the Assessee had not used the current year's data. The learned TPO thereafter undertook an analysis to identify companies that, according to the TPO, were similar to the Assessee's profile, based on the FAR analysis.

8. The entities selected by the appellant also included the following three companies:

i. Quick Heal Technologies Limited;

ii. Innovana Thinks Labs Limited; and

iii. Tally Solutions Private Limited.

9. The Assessee objected to some other entities selected for conducting the transfer pricing study, including the aforementioned three companies. However, the learned TPO rejected the objections raised by the Assessee and selected 11 companies for conducting the transfer pricing studies. A tabular statement setting out the companies finally selected by the Tribunal for determination of the ALP of the international transactions relating to distribution of software segment is set out below:

Sl. No.	Company	PLI - OP/OR %			
		FY 2019-20	FY 2018-19	FY 2017-18	Weighted Avg(%)
1	STARCOM INFORMATION TECHNOLOGY	3.72	12.55	-3.71	5.19
2	APTECH LIMITED	4.62	8.46	6.64	6.50
3	ZOHO CORPORATION	6.84	9.66	7.96	8.37
4	K7 COMPUTING PVT. LTD.	12.62	12.23	1.99	9.02
5	MICROSOFT CORPORATION	8.39	8.02	10.69	9.18
6	COMPUCOM SOFTWARE LIMITED	32.33	0.94	-11.34	11.08
7	DESIGNTECH SYSTEMS	19.22	7.08	2.37	11.46

	PRIVATE LIMITED				
8	DAFFODIL SOFTWARE PRIVATE LIMITED	17.48	19.39	11.97	16.09
9	QUICK HEAL TECHNOLOGIES LTD.	32.65	36.01	29.14	32.71
10	INNOVANA THINK LABS LTD.	34.96	30.73	37.31	34.25
11	TALLY SOLUTIONS PRIVATE LIMITED	53.13	32.29	26.22	40.06
	35TH PERCENTILE				**9.02**
	MEDIAN				**11.08**
	65TH PERCENTILE				**16.09**

10. On the basis of the aforesaid studies, the learned TPO directed an upward transfer pricing adjustment of ₹185,50,08,610/- (Rupees One Hundred Eighty-Five Crores Fifty Lakhs Eight Thousand Six Hundred and Ten only) under Section 92CA of the Act. This included ₹181,38,13,200/- for trading of software and an adjustment of ₹4,11,95,410/- for interest on delayed receivables.

11. Based on the learned TPO's order, the AO passed a draft assessment order. The Assessee, *inter alia,* filed its objections before the Dispute Resolution Panel [**DRP**], which were disposed of by an order dated 14.05.2024.

12. On the basis of the aforesaid directions, the AO passed the final assessment order. The AO made a transfer pricing adjustment

of ₹174,61,81,776/- and assessed the total income at ₹11,71,68,43,086/-. The Assessee impugned the order before the learned Tribunal.

13. The learned Tribunal considered the Assessee's objections, *inter alia,* regarding inclusion of the following three entities as comparables for the purposes of transfer pricing analysis:

i. Quick Heal Technologies Limited;

ii. Innovana Thinks Labs Limited; and

iii. Tally Solutions Private Limited.

14. The learned Tribunal examined the said objections and found that the functional profile of the aforementioned three entities was not similar to that of the Assessee.

15. In regard to the Quick Heal Technologies Limited, the Tribunal accepted the Assessee's contention that the said company was functionally different, as it was engaged in providing diverse services apart from the distribution of software. It was also engaged in software development, research and development, and other software development activities. The accounts of the said

company indicated that it had incurred substantial expenditure on research and development. It had a research and development team comprising approximately 340 people. Additionally, it was also engaged in providing training and running education institutions.

16. Similarly, the learned Tribunal also found that Innovana Thinks Labs Limited was not functionally similar to the Assessee, as it owned intellectual property rights and was engaged in the software development. It was also involved in research and development activities.

17. The learned Tribunal found that Tally Solutions Private Limited was also involved in diverse business activities. It was involved in developing packaged software as well as trading activities. Thus, Tally Solutions Private Limited was not merely distributing the products but had also developed them.

18. From the aforesaid context, the Revenue has projected the following questions for consideration before this Court:

> 1. "Whether in the facts and circumstances of the case and in law, the Tribunal is right in excluding companies namely Quick Heal Technologies Ltd., Tally

Solutions Pvt. Ltd. and Innovana Thinks Lab Ltd. that are functionally similar to the taxpayer's business in the set of comparables for determining the arm's length price?

2. Whether in the facts and circumstances of the case and in law, the Tribunal is right in excluding some comparables adopted by the TPO by applying a narrower functionality filter than the TPO, and not testing other comparables using this filter applied by it which is in violation of sections 92 to 92C of Income tax Act, 1961 and Rule 10B of Income Tax Rules, 1962?

3. Whether in the facts and circumstances of the case and in law, the Tribunal is right in excluding the comparable without carrying out necessary enquiry pertaining to functions vis-à-vis tested party?

4. Whether in the facts and circumstances of the case and in law, the Tribunal is right in excluding the comparable without carrying out necessary enquiry pertaining to markets it is operating in vis-à-vis tested party?"

19. Insofar as question No.1 is concerned, the same relates to the learned Tribunal's finding that the three companies in question (Quick Heal Technologies Limited; Innovana Thinks Labs Limited; and Tally Solutions Private Limited) are functionally dissimilar. This finding is a finding of fact and does not give rise to any substantial question of law. The Revenue has neither projected any question nor assigned any reasons for this Court to hold that the aforesaid finding as perverse.

20. There is no dispute as to the functional profiles of the three entities as noted by the learned Tribunal. If the said functional profiles are accepted, the finding that the companies are functionally dissimilar to the Assessee cannot be faulted.

21. Question No.2 proceeds on the basis that the learned Tribunal narrowed the functionality filter but it had not tested the other comparables against the said filters. The learned counsel for the Revenue submitted that the said question also relates to the exclusion of the aforementioned three companies on the ground of functional dissimilarity.

22. The learned Tribunal has not adopted any separate filter. Therefore, in our view, the learned Tribunal has merely found that some of the entities selected by the TPO are functionally dissimilar. In our view, question No.2 is, in substance, a question relating to the functional dissimilarity of the companies.

23. Question No.3 also does not arise, as there is no dispute as to the functional profile of the companies as noted by the learned Tribunal. In this regard, question No.4 also does not raise any substantial issue.

24. In our view, no substantial questions of law arise in the present appeal. The appeal is accordingly dismissed.

25. The pending interlocutory application also stands disposed of.

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(K.S. HEMALEKHA)
JUDGE

MBM
List No.: 1 Sl No.: 2