RESERVED ON 28TH SEPTEMBER 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH 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. 501 OF 2014

BETWEEN:

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

2. THE ASST. COMMISSIONER OF INCOME-TAX
CIRCLE-11(5), RASHTROTHANA BHAVAN
NRUPATHUNGA ROAD, BANGALORE.

…APPELLANTS

(BY SRI E.I. SANMATHI, ADVOCATE)

AND:

1. M/S. LOGICA PVT. LTD.
DIVYASHREE TECHNOPOLIS
124-125 YEMLUR P.O., OFF AIRPORT ROAD
BANGALORE - 560 037
NOW MERGED WITH CGI INFORMATION SYSTEMS AND MANAGEMENT CONSULTANTS PVT. LTD. #95/1 & 95/2, ELECTRONIC CITY, TOWER-2, ELECTRONIC CITY PHASE-1, WEST BANGALORE-560100, AS PER MEMO DATED 26.09.2026 FILED BY ADVOCATE FOR RESPONDENT, VIDE ORDER DATED 28.09.2026

…RESPONDENT

(BY MS. TANMAYEE RAJKUMAR, ADVOCATE)

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, PRAYING TO ALLOW THE APPEAL AND SET ASIDE THE ORDERS PASSED BY THE INCOME-TAX APPELLATE TRIBUNAL, BANGALORE IN ITA NO.1192/Bang/2012 DATED 18.07.2014 AND CONFIRM THE ORDER OF THE APPELLATE COMMISSIONER CONFIRMING THE ORDER PASSED BY THE ASST. COMMISSIONER OF INCOME TAX, CIRCLE-11(5), BANGALORE & ETC.

THIS INCOME TAX APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS PRONOUNCED AS UNDER:

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

C.A.V. 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 18.07.2014 [**impugned order**] passed by the learned Income-Tax Appellate Tribunal, Bengaluru [**ITAT**] in ITA No.1192/Bang/2011, in respect of Assessment Year [**AY**] 2008-09.

2. The said appeal was preferred by the respondent [**Assessee**] against the Assessment Order dated 13.7.2012 passed by the

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

3. The Assessee had filed its income tax returns for the AY 2008-09 on 13.09.2008 declaring a total income of ₹39,42,40,650/-. The said return was initially processed under Section 143(1) of the Act, but was later picked up for scrutiny. The AO issued a notice dated 17.08.2009, under Section 143(2) of the Act, which was duly served. The Assessee had declared international transactions with Associated Enterprises (AE). Therefore, the AO made a reference under Section 92CA of the Act to the Transfer Pricing Officer [**TPO**]. The Assessee had furnished the Transfer Pricing Analysis [**TPA**] to establish that the international transactions were on an Arm's Length basis. It had selected the Transactional Net Margin Method [**TNMM**] as the most appropriate method.

4. The learned TPO held that the Assessee's TPA was defective on several grounds and rejected it. First, it found that the Assessee had eliminated a large number of companies by applying qualitative filters, which, according to the TPO, raised doubts about the objectivity of the analysis.

5. Additionally, the TPO noted that the Assessee had not used the current year's data in all cases. It also observed that the Assessee had not applied the Related Party Transactions [**RPT**] filter properly.

6. The TPO also noted that the Assessee had selected companies which were predominantly generating income from rendering services on site. However, the Assessee was rendering its services through centres located in India. The Assessee objected to the rejection of its TPA.

7. The learned TPO adopted a separate set of filters to select comparable entities from the available database. Additionally, the TPO also issued notices under Section 133(6) of the Act to certain companies and finally selected a list of twenty companies as comparable. A tabular statement showing the final set of comparables considered by the TPO is set out below:

Sl.No.	Name of the Company	OP/TC %
1.	Avani Cincom Technologies	25.62
2.	Bodhtree Consulting Ltd.	18.72
3.	Celestial Biolabs	87.94
4.	e-zest Solutions Ltd	29.81
5.	Flextronics (Aricent)	7.86
6.	iGate Global Solution ltd	13.99
7.	Infosys	40.37

8.	KALS Information Systems ltd(seg)	41.94
9.	LGS Global Ltd	27.52
10.	Mindtree Ltd (Seg)	16.41
11.	Persistent Systemps Ltd	20.31
12.	Quintegra Solution Ltd	21.74
13.	R systems International (seg)	15.30
14.	R S Software (India) Ltd	7.41
15.	Sasken Communication Technologies ltd (seg)	7.58
16.	Tata Elxsi (Seg)	18.97
17.	Thirdware Solution Ltd	19.35
18.	Wipro Ltd (seg)	28.45
19.	Softsol India Ltd	17.89
20.	Lucid Software Ltd	16.50
	AVERAGE	**23.65**

8. After making the necessary adjustments, the TPO determined the arithmetic mean PLI at 22.61% of operating costs. Accordingly, the learned TPO determined the Arm's Length Price at ₹300,92,32,011/- and directed an adjustment of ₹16,29,24,390/- under Section 92C of the Act in respect of international transactions providing technical services.

9. The TPO conducted a similar exercise for IT-enabled services [ITES] and selected the following companies as comparables. The tabular statement showing the final set of comparables considered by the TPO is set out below:

Sl.No.	Name of the Company	OP/TC %
1.	Accentia Technologies Ltd (Seg)	41.77
2.	Acropetal Technologies Ltd (seg)	35.30
3.	Aditya Birla Minacs Worldwide Limited (Earlier known as Transworks Information Services Ltd.)	-4.00
4.	Asit C Mehta Financial Services Lid (Seg.)	9.42
5.	Caliber Point Business Solutions Ltd	10.97
6.	Coral Hubs Ltd (Earlier known as Vishal Information Technologies Ltd	50.68
7.	Cosmic Global Ltd	23.30
8.	Crossdomain Solutions Ltd	27.03
9.	Datamatics Financial Services Ltd (Seg)	29.11
10.	e4e Healthcare Solutions Ltd (Formerly known as Nittany Outsourcing Services Pvt ltd	18.54
11.	Eclerx Services Ltd	58.80
12.	Genesys International Corporation Ltd	47.40
13.	Infosys BPO Ltd	19.66
14.	IServices India Pvt. Ltd	10.77
15.	Jindal Intellicom Pvt. Ltd	-10.29
16.	Mold-Tek Technologies Ltd	96.66
17.	R Systems International Ltd (Seg)	4.30
18.	Spanco Ltd (Seg.) (Earlier known as Spanco Telesystems & Solutions Ltd	8.81
19.	Sipro Ltd (Seg)	30.05
20.	Allsec Technologies Limited	-13.29
	AVERAGE	**24.75**

10. After making the adjustments, the TPO determined the arithmetic mean of the PLI at 23.08% of the operating costs and

determined the shortfall of ₹1,95,05,997/- from the Arm's Length Price. Accordingly, the learned TPO directed an upward adjustment to the said extent – a total adjustment of ₹18,24,30,387/- (₹16,29,24,390/- + ₹1,95,05,997/-).

11. Based on the directions issued by the learned TPO, the AO passed a Draft Assessment Order. The Assessee filed its objections before the Dispute Resolution Panel [**DRP**], which were rejected by an order dated 13.07.2012.

12. Based on the DRP's directions, the AO passed the final assessment order on 13.07.2012. The Assessee, being aggrieved by the transfer pricing adjustment, appealed the final assessment order before the learned ITAT.

13. The Assessee's grievance in respect of the transfer pricing adjustment on account of software development charges was essentially to the inclusion of seven companies selected by the learned TPO as comparables. The Assessee contended that the said seven companies were functionally dissimilar.

14. Regarding the determination of ALP of data processing charges (IT-enabled services), the Assessee objected to the

inclusion of three companies. According to the Assessee, two of the companies (Coral Hubs Ltd and Eclerx Services Ltd) were functionally dissimilar, and one company (Mold-Tek Technologies Ltd) had earned abnormal profits.

15. The learned ITAT accepted the challenge laid by the Assessee to the inclusion of comparables and allowed the Assessee's appeal.

16. Aggrieved by the ITAT's order, the Revenue filed the present appeal, raising several questions of law.

17. The present appeal was admitted by an order dated 07.04.2015 to consider the following questions of law which were reframed by the learned counsel appearing for the Revenue.

> "1. Whether, the tribunal was correct in holding that telecommunication charges and expenditure incurred in foreign currency excluded from export turnover has to be excluded from total turnover also, without appreciating that there is no provision in section 10A that such expenses should be reduced from the total turnover, as clause (iv) of the Explanation to section 10A provides that such expenses are to be reduced only from the export turnover?
>
> 2. Whether, the Tribunal was correct in holding that the functions of the assessee is not comparable to the functions of Avani Cimcon Technologies Ltd., Celestial Labs Ltd., Infosys Technologies Ltd., KALS Information Systems Ltd., Tata Elxsi Ltd.,

and Wipro Ltd., under software segment, without making a FAR analysis of the assessee and also without appreciating that the comparables satisfy all the qualitative and quantitative filters applied by the TPO and recorded perverse finding?

3. Whether, the Hon'ble Tribunal, on the facts and in the circumstances of the case, was right in excluding Infosys Technologies Limited and Wipro Limited from the list of comparables due to premium branding, without taking into consideration that brand is only one of the variables to determine the profit margin when brand is only one of the factors which affects profitability and not the sole factor which affects profitability?

4. Whether, the Tribunal, on the facts and in the circumstances of the case, was right in rejecting M/s. Coral Hubs Ltd., M/s.Mold-Tek Technologies Ltd., and M/s.Eclerx Services Ltd., from the final list of comparables in ITES Segment, by relying on other decisions without appreciating the fact that selection of comparables in TP analysis depends on assessee specific FAR analysis?

5. Whether, on the facts and circumstances of the case, the Tribunal was correct in not appreciating the facts that if any filter or criteria applied by the assessee for search of comparables is accepted or any filter or criteria applied by the TPO is relaxed, the entire accept /reject matrix change resulting in comparable set including those companies which are neither taken by the assessee nor by the TPO in his final comparable set and which may not be finding place in the TP order under section 92CA of the Act and recorded perverse finding?"

18. This Court considered the aforesaid questions and, by judgment dated 13.07.2018, dismissed the appeal. This Court, *inter alia*, relied on the earlier decision dated 25.06.2018 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**.

19. The Revenue preferred a Special Leave Petition before the Supreme Court against the order dated 13.07.2018. The said petition was tagged with a batch of matters including the appeal arising out of this Court's decision in **Prl. Commissioner of Income Tax and another v. M/s. Softbrands India Pvt. Ltd**. (*supra*). The Supreme Court, *inter alia*, held that the question whether the ALP had been determined by following the provisions of the Act and the Rules made thereunder may give rise to questions of law; therefore, all the appeals relating to transfer pricing adjustments could not be rejected on the ground that they did not entail any substantial question of law.

20. The Supreme Court disposed of the batch of matters by its decision in **SAP Labs India (P) Ltd. v. Income Tax Officer (and other appeals)**[1]. The present appeal was remanded to consider the questions of transfer pricing bearing in mind the observations made by the Supreme Court in **SAP Labs India (P) Ltd. v. Income Tax Officer** (*supra*).

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

21. The learned counsel appearing for the Revenue rightly pointed out that question No. 1 stands concluded against the Revenue by the Judgment dated 13.07.2018, because the Supreme Court's remand is confined to the other questions relating to the transfer pricing adjustment.

Re: Questions No.2 and 3:

22. The second question relates to the learned ITAT's findings that the following companies were required to be excluded as comparables for determining the ALP on the ground that their functional profile was not similar to that of the Assessee:

i. Avani Cincom Tecnologies Ltd.

ii. Celestial Labs Ltd.

iii. Infosys Technologies Ltd.

iv. KALS Information Systems Ltd.,

v. Tata Elxsi Ltd.

vi. Wipro Ltd.

23. This Court has considered whether the aforesaid comparables were rightly excluded in its decision in ITA

No.338/2013 in respect of AY 2007-08. This court found no fault in the learned ITAT's decision to exclude those entities as comparable to the Assessee. Questions No.2 and 3 are thus squarely covered by the said decision in favour of the assessee.

Re: Question No.4

24. Question No.4 relates to exclusion of three companies. The learned ITAT found merit in the Assessee's contention that M/s. Coral Hubs Limited (which is earlier known as Vishal Information Technologies Ltd.) was not comparable to the Assessee on the ground of functional dissimilarity. The learned ITAT found that Coral Hubs Limited had a different business model because it subcontracted most of the ITeS work to third-party vendors. Additionally, the ITAT also referred to its earlier decision in the case of **Capital IQ Information Systems India Private Limited[2].** In that decision, the learned ITAT noted that Coral Hub Ltd. had commenced a new line of business in print-on-demand. In **Maersk Global Centres (India) Pvt. Ltd.[3],** the learned ITAT found Coral Hub Limited to be functionally dissimilar to the assessee (in that case) on the ground that it had outsourced a considerable portion of

[2] ITA No.1961/Hyd/2011
[3] (2014) 31 ITR (Trib) 1 (Mum)

its business, while the assessee carried on the entire operations by itself.

25. We may note that there is no challenge to these findings, which are essentially findings of fact. The learned counsel for the Revenue does not contest that Coral Hub Limited's business model was based on outsourcing and that it did not carry out all activities in-house.

26. In **Rampgreen Solutions (P) Ltd. v. Commissioner of Income Tax**[4] the Delhi High Court had found merit in the exclusion of Coral Hubs Limited (then known as Vishal Information Technologies Ltd.) as comparable to the assessee in that case on the ground that it was rendering KPO services, which were higher end services as compared to the routine ITeS (BPO services). The Court distinguished KPO from BPO and found that they were not comparable for the purposes of determining the ALP on the basis of their PLI.

27. A similar view is also accepted by the Delhi High Court in **Principal Commissioner of Income Tax v. Omniglobe**

[4] [2015] 60 taxmann.com 355 (Delhi)

Information Technologies (India) (P) Ltd.[5] and **CIT v. PTC Software (I)(P) Ltd**[6]. For similar reasons, the learned ITAT also excluded Eclerx Services Ltd. from the list of comparables. The question of whether these companies ought to be excluded is based on factual findings regarding their functional profile.

28. The learned ITAT excluded Mold-Tek Technologies Ltd **[*Mold-Tek*]** because it had extraordinary profits in the relevant assessment year. The learned ITAT noted that Mold-Tek Technologies Ltd. reported a margin of 96.66% and found it abnormally high and attributable to extraordinary circumstances. The learned ITAT also referred to the decision of the Special Bench in **Maersk Global Centres (India) Private Limited** (*supra*). In that decision, it was found that another company had merged with Mold-Tek. with effect from 01.10.2006, and therefore the consolidated results resulted in super-nominal profits.

29. Revenue cannot dispute that Mold-Tek reported extraordinary super profits. Thus, including this company as a comparable would skew the mean PLI and subvert the process of determining the ALP.

[5] [2023] 156 taxmann.com 340 (Delhi)
[6] [2016] 75 taxmann.com 31 (Bombay)

30. It is relevant to bear in mind that the object of the pricing analysis is to ascertain the Arm's Length Price. This ensures that taxable profits are not shifted through international transactions with Associated Enterprises. Since the objective of the TP analysis is to determine whether the transactions are on an arm's length basis, it would be necessary to exclude comparables which have reported abnormal results on account of extraordinary circumstances.

31. The exclusion of the companies as referred to above cannot be stated to be contrary to the provisions of the Act or Rules. Thus, no substantial question of law arises from the learned ITAT's decision to exclude the aforementioned companies as comparables for determining the ALP.

Re: Question No.5

32. This question is framed on the assumption that if any company found as a comparable by adopting any filter or criteria, is excluded, the entire matrix would change. Thus, the exercise of finding comparable entities would be required to be conducted afresh.

33. The learned counsel for the Revenue fairly stated that this question did not arise in the given facts. The learned ITAT had not directed the use of any filter. The learned ITAT merely accepted that certain companies, selected using filters, were required to be excluded for the reasons set out in the order. In view of the above, no substantial question of law arises for consideration of this Court.

34. The appeal is, accordingly, dismissed.

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(K.S. HEMALEKHA)
JUDGE

KMV