

ITEM NO.6 Court 8 (Video Conferencing) SECTION IV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).28652/2018

(Arising out of impugned final judgment and order dated 09-07-2018 in ITA No.10/2011 passed by the High Court Of Karnataka At Bengaluru)

SAP LABS INDIA PRIVATE LIMITED

Petitioner(s)

VERSUS

INCOME TAX OFFICER CIRCLE 6 (1) (1) BANGALORE Respondent(s)
(IA No. 103464/2020 - APPLICATION FOR TAGGING/DETAGGING)

WITH

Diary No(s). 1571/2019 (IV-A)
(With appls. for c/delay in filing and refiling SLP)

Diary No(s). 25119/2019 (XIV)
(With appls. for c/delay in filing SLP)

SLP(C) No. 28694/2018 (IV-A)

SLP(C) No. 11672/2019 (IV-A)

Diary No(s). 25313/2019 (IV-A)
(With appls. for c/delay in filing and refiling SLP)

SLP(C) No. 11071/2019 (IV-A)

Diary No(s). 30692/2019 (IV-A)
(With appls. for c/delay in filing SLP)

Diary No(s). 21406/2019 (IV-A)
(With appls. for c/delay in filing SLP)

SLP(C) No. 29180/2018 (IV-A)
(Permission to file additional documents/facts/annexures)

SLP(C) No. 8289/2019 (IV-A)

SLP(C) No. 33631/2018 (IV-A)

SLP(C) No. 2641/2019 (IV-A)

SLP(C) No. 3941/2019 (IV-A)

SLP(C) No. 5361/2019 (IV-A)

SLP(C) No. 5362/2019 (IV-A)

SLP(C) No. 6108/2019 (IV-A)

SLP(C) No. 5365/2019 (IV-A)
(IA No. 151014/2019 - AMENDMENT IN CAUSE TITLE)

SLP(C) No. 5364/2019 (IV-A)

SLP(C) No. 5366/2019 (IV-A)

SLP(C) No. 6104/2019 (IV-A)

SLP(C) No. 6106/2019 (IV-A)

Diary No(s). 1981/2019 (IV-A)
(With appls. for c/delay in filing SLP)

SLP(C) No. 6103/2019 (IV-A)

SLP(C) No. 7367/2019 (IV-A)

Diary No(s). 6037/2019 (IV-A)
(With appls. for c/delay in filing SLP)

SLP(C) No. 7368/2019 (IV-A)

SLP(C) No. 7369/2019 (IV-A)

SLP(C) No. 7376/2019 (IV-A)

SLP(C) No. 7372/2019 (IV-A)

SLP(C) No. 7374/2019 (IV-A)

SLP(C) No. 8139/2019 (IV-A)

SLP(C) No. 8141/2019 (IV-A)
(Amendment in cause title)

SLP(C) No. 8140/2019 (IV-A)
(With applns for exemption from filing c/c of impugned judgment)

SLP(C) No. 7366/2019 (IV-A)

SLP(C) No. 7373/2019 (IV-A)

SLP(C) No. 8147/2019 (IV-A)

Diary No(s). 5862/2019 (IV-A)
(With appls. for c/delay in filing SLP)

SLP(C) No. 8145/2019 (IV-A)

Diary No(s). 9014/2019 (IV-A)
(With appls. for c/delay in filing SLP)

Diary No(s). 8921/2019 (IV-A)
(With appls. for c/delay in filing SLP)

Diary No(s). 8916/2019 (IV-A)
(With appls. for c/delay in filing SLP)

SLP(C) No. 7589/2019 (XIV)

Diary No(s). 7805/2019 (IV-A)
(With appls. for c/delay in filing SLP)

Diary No(s). 7909/2019 (IV-A)
(With appls. for c/delay in filing SLP)

Diary No(s). 8914/2019 (IV-A)
(With appls. for c/delay in filing SLP)

SLP(C) No. 9064/2019 (IV-A)

SLP(C) No. 9066/2019 (IV-A)

SLP(C) No. 9067/2019 (IV-A)

SLP(C) No. 9072/2019 (IV-A)

SLP(C) No. 9071/2019 (IV-A)
(With applns for exemption from filing c/c of impugned judgment)

SLP(C) No. 9070/2019 (IV-A)

Diary No(s). 6043/2019 (IV-A)
(With appls. for c/delay in filing SLP)

Diary No(s). 8896/2019 (IV-A)
(With appls. for c/delay in filing SLP)

Diary No(s). 8900/2019 (IV-A)

Diary No(s). 8940/2019 (IV-A)
(With appls. for c/delay in filing SLP)

Diary No(s). 8715/2019 (IV-A)
(With appls. for c/delay in filing SLP)

Diary No(s). 9010/2019 (IV-A)
(With appls. for c/delay in filing SLP)

Diary No(s). 11608/2019 (IV-A)
(With appls. for c/delay in filing SLP)

Diary No(s). 11689/2019 (IV-A)
(With appls. for c/delay in filing SLP, For amendment of cause title)

Diary No(s). 11858/2019 (IV-A)
(With appls. for c/delay in filing SLP)

SLP(C) No. 11073/2019 (IV-A)

SLP(C) No. 11074/2019 (IV-A)

Diary No(s). 9997/2019 (IV-A)
(With appls. for c/delay in filing SLP)

SLP(C) No. 10128/2019 (IV-A)
(For amendment in cause title)

SLP(C) No. 11670/2019 (IV-A)

SLP(C) No. 11671/2019 (IV-A)

SLP(C) No. 11675/2019 (IV-A)

SLP(C) No. 12346/2019 (IV-A)

SLP(C) No. 16209/2019 (IV-A)
(With applns for exemption from filing c/c of impugned judgment)

SLP(C) No. 11669/2019 (IV-A)

SLP(C) No. 11676/2019 (IV-A)

SLP(C) No. 16211/2019 (IV-A)

SLP(C) No. 11677/2019 (IV-A)

SLP(C) No. 16216/2019 (IV-A)

SLP(C) No. 12348/2019 (IV-A)

SLP(C) No. 12344/2019 (IV-A)

SLP(C) No. 14973/2019 (IV-A)

SLP(C) No. 14974/2019 (IV-A)

SLP(C) No. 14976/2019 (IV-A)

SLP(C) No. 14978/2019 (IV-A)

SLP(C) No. 16212/2019 (IV-A)

SLP(C) No. 14980/2019 (IV-A)

SLP(C) No. 14982/2019 (IV-A)
(With appls. for exemption from filing c/c of impugned judgment)

Diary No(s). 15505/2019 (IV-A)
(With appls. for c/delay in filing SLP)

SLP(C) No. 14990/2019 (IV-A)

Diary No(s). 15762/2019 (IV-A)
(With appls. for c/delay in filing SLP)

SLP(C) No. 14991/2019 (IV-A)
(Amendment in cause title)

SLP(C) No. 14992/2019 (IV-A)
(With appls. for exemption from filing c/c of impugned judgment)

SLP(C) No. 14996/2019 (IV-A)

SLP(C) No. 14997/2019 (IV-A)

SLP(C) No. 15005/2019 (IV-A)
(Amendment in cause title)

SLP(C) No. 15006/2019 (IV-A)

SLP(C) No. 14979/2019 (IV-A)
(With appls. for exemption from filing c/c of impugned judgment)

SLP(C) No. 15007/2019 (IV-A)

SLP(C) No. 15011/2019 (IV-A)

SLP(C) No. 15015/2019 (IV-A)

SLP(C) No. 15016/2019 (IV-A)

SLP(C) No. 15019/2019 (IV-A)

SLP(C) No. 14983/2019 (IV-A)

SLP(C) No. 15021/2019 (IV-A)

SLP(C) No. 14972/2019 (IV-A)

SLP(C) No. 16205/2019 (IV-A)

Diary No(s). 23141/2019 (IV-A)
(With appls. for c/delay in filing SLP)

Diary No(s). 25321/2019 (IV-A)

(With appls. for c/delay in filing SLP)

Diary No(s). 13607/2019 (IV-A)
(With appls. for c/delay in filing and refiling SLP)

Diary No(s). 22955/2019 (IV-A)
(With appls. for c/delay in filing SLP)

Diary No(s). 22008/2019 (IV-A)
(With appls. for c/delay in filing SLP)

Diary No(s). 25126/2019 (IV-A)
(With appls. for c/delay in filing SLP)

Diary No(s). 23147/2019 (IV-A)
(With appls. for c/delay in filing SLP)

SLP(C) No. 16208/2019 (IV-A)

Diary No(s). 22013/2019 (IV-A)
(With appls. for c/delay in filing SLP)

SLP(C) No. 15801/2019 (IV-A)

Diary No(s). 23114/2019 (IV-A)
(With appls. for c/delay in filing SLP)

Diary No(s). 23273/2019 (IV-A)
(With appls. for c/delay in filing SLP)

Diary No(s). 22030/2019 (IV-A)

Diary No(s). 23277/2019 (IV-A)
(With appls. for c/delay in filing SLP)

SLP(C) No. 18595/2019 (IV-A)

Diary No(s). 21399/2019 (IV-A)
(With appls. for c/delay in filing and refiling SLP, exemption from
filing c/c of the impugned judgment)

Diary No(s). 22059/2019 (IV-A)
(With appls. for c/delay in filing and refiling SLP)

Diary No(s). 22126/2019 (IV-A)
(FOR
(With appls. for c/delay in filing SLP)

Diary No(s). 25285/2019 (IV-A)
(With appls. for c/delay in filing SLP)

Diary No(s). 26394/2019 (IV-A)

(With appls. for c/delay in filing SLP)

Diary No(s). 23113/2019 (IV-A)
(With appls. for c/delay in filing and refiling SLP)

Diary No(s). 28300/2019 (IV-A)
(With appls. for c/delay in filing SLP)

Diary No(s). 21305/2019 (IV-A)
(With appls. for c/delay in filing SLP, exemption from filing c/c
of the impugned judgment)

Diary No(s). 26866/2019 (IV-A)
(With appls. for c/delay in filing SLP)

Diary No(s). 27869/2019 (IV-A)
(With appls. for c/delay in filing SLP)

Diary No(s). 28295/2019 (IV-A)
(With appls. for c/delay in filing SLP)

Diary No(s). 21498/2019 (IV-A)
(With appls. for c/delay in filing and refiling SLP)

Diary No(s). 23130/2019 (IV-A)
(With appls. for c/delay in filing and refiling SLP)

Diary No(s). 23146/2019 (IV-A)
(With appls. for c/delay in filing SLP, exemption from filing c/c
of the impugned judgment, for early hearing)

Diary No(s). 26887/2019 (IV-A)
(With appls. for c/delay in filing SLP)

Diary No(s). 27764/2019 (IV-A)
(With appls. for c/delay in filing SLP)

Diary No(s). 28142/2019 (IV-A)
(With appls. for c/delay in filing and refiling SLP, exemption from
filing c/c of the impugned judgment)

Diary No(s). 30481/2019 (IV-A)
(With appls. for c/delay in filing and refiling SLP)

Diary No(s). 31535/2019 (IV-B)
(With appls. for c/delay in filing SLP, exemption from filing c/c
of the impugned judgment)

Diary No(s). 26872/2019 (IV-A)
(With appls. for c/delay in filing and refiling SLP, exemption from
filing c/c of the impugned judgment)

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Mr. Kishore Kunal, AOR

UPON hearing the counsel the Court made the following
O R D E R

By an order dated 26.02.2020, this Court framed

the following three issues for consideration in this bunch of 149 cases:

"1. Whether the exclusion of a comparable entity can be sustained without determining the specific characteristics of the transaction; FAR (functions performed, assets deployed and risks assumed); contractual terms and market conditions as prescribed in Rule 10B(2) of the IT Act, 1962?

2. Whether the objection to the selection of comparable is legally sustainable?

3. Whether the parameters of analysis prescribed under Rule 10B are exhaustive and if so whether it is legally permissible to by-pass the same partially or by implication?"

The submission of the assesseees that there are other issues that would arise in the Appeals was taken note of and liberty was given to the learned counsel for the assesseees to argue the other issues after the three issues are dealt with. On a close scrutiny of the issues that were framed for consideration, we are of the prima facie opinion that such issues cannot be decided in the abstract without reference to facts.

We have heard the learned counsel for the Revenue and the assesseees who agree that this bunch of cases needs categorization on the basis of certain criteria. The learned counsel for the assesseees may submit their suggestions in respect of the categorization through Mr. Tarun Gulati, learned senior

counsel to Mr.Zoheb Hossain learned counsel for the Revenue. Mr.Zoheb Hussain shall finalise the questions that need to be considered by this Court by taking into account the suggestions made by the learned counsel for the assesseees.

List these matters on 03.08.2021.

(B.Parvathi)
Court Master

(Anand Prakash)
Court Master