

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH, BENGALURU**

**BEFORE SHRI N.V.VASUDEVAN, VICE PRESIDENT  
and  
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER**

IT(TP)A No.1096/Bang/2011  
(Assessment year: 2007-08)

M/s.Infinera India Pvt. Ltd.  
Prestige Solitaire, 401, Level 4,  
No.6, Brunton Road,  
Bengaluru-560025.  
PAN: AABCI 1411 R ... Appellant

Vs.

Income-tax Officer,  
Ward 11(2),  
Bengaluru. ... Respondent

Appellant by : Shri Ali Asger, CA.  
Respondent by : Shri C.H.Sundar Rao, CIT(DR)

Date of hearing : 20/11/2018  
Date of pronouncement : 05/12/2018

**O R D E R**

**Per INTURI RAMA RAO, AM :**

This is an appeal recalled in the order passed by this Tribunal vide order dated 06/07/2018 in Misc.Pen.No.121/Bang/2018 to adjudicate the comparability of the company M/s.Megasoft in the software segment. This issue is covered by the decision of the co-ordinate bench of Tribunal in the case of *Tesco Hindustan Service Centre Pvt. Ltd., vs. DCIT (77 taxmann.com 48)* and *Core Objects India (P) Ltd. vs. ITO 72 taxmann.com 53(Bang.Trib)*. The relevant observation of the Tribunal in the case of *Core Objects India (P) Ltd.* (supra) is as follows:

“17. The next company for which exclusion is being requested is M/s Megasoft Ltd. It is submitted by the Id.AR of the assessee that about this company, the discussion is available on pages 34 to 36 of the Tribunal order rendered in the case of *Hewlett-Packard (India) Globalsoft (P.) Ltd. (supra)*. We find that in this case, it was held

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by the Tribunal that M/s Megasoft Ltd. should be considered as a good comparable after segmentation and therefore, in the present case, we direct the AO/TPO to consider this company i.e. M/s *Megasoft Ltd., (supra)* as a comparable after segmentation of its result.”

Respectfully following the ratio of the above decision, this ground of appeal is allowed.

*Order pronounced in the open court on 05<sup>th</sup> December, 2018*

Sd/-

**(N.V.VASUDEVAN)**  
**VICE PRESIDENT**

Place : Bengaluru.  
D a t e d : 05/12/2018

sd/-

**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

*srinivasulu, sps*

**Copy to :**

- 1 Appellant
- 2 Respondent
- 3 CIT(A)
- 4 CIT
- 5 DR, ITAT, Bangalore.
- 6 Guard file

By order

Assistant Registrar  
Income-tax Appellate Tribunal  
Bangalore