

The Pr. Commissioner of Income-Tax, Central & Anr. v. M/s. Atria Wind (Kadambur) Pvt. Ltd.

Income Tax Appeal No. 139 of 2026

2026:KHC:49082-DB | 2026-09-09

Section 47(xiii) provisos (a) & (c) and section 153A: partner capital withdrawal and share sale prior to firm-to-company conversion do not violate 'immediately before the succession' condition; regular corporate documents (Board resolutions, legal notes, valuation reports) are not incriminating material under Abhisar Buildwell.

Income-tax Act, 1961: sections 45, 47(xiii) provisos (a) and (c), 80-IA, 132, 143(1), 143(3), 153A and 260A

High Court of Karnataka | 2-judge bench (Division Bench) | Vibhu Bakhru, CJ. | K. S. Hemalekha, J.

Assessment years: 2018-19

Dual holdings on section 47(xiii) provisos (a)/(c) and section 153A incriminating-material threshold

The Division Bench upheld the ITAT order both on the substantive interpretation of 'immediately before the succession' in proviso (a) to section 47(xiii) (paragraphs 10-13, PDF pp. 7-9) and on the jurisdictional ground that Board resolutions, NOCs, solicitor notes and valuation reports found during search are regular corporate documents and not 'incriminating material' under PCIT v. Abhisar Buildwell Pvt. Ltd., 2023 SCC OnLine SC 481 (paragraphs 14-16, PDF pp. 9-10).

01 FACTS OF THE CASE

The assessee, M/s. Atria Wind (Kadambur) Pvt. Ltd. (operating a 50 MW wind power project in Tamil Nadu), was formed on 27.03.2017 by succession of the partnership firm M/s. Perpetual Investments. Prior to the succession, the firm had sold shares held in Atria Convergence Technologies (ACT) on 06.05.2016 for Rs. 394,94,99,14,233 to two Mauritius entities, and on 01.01.2017 the individual partners withdrew capital and reconstituted the firm so that Atria Wind Power Pvt. Ltd. held a 94% share while individual partners held 1%. For AY 2018-19, the assessee's return (filed 23.10.2018) was processed under section 143(1) on 17.05.2019. Following a search under section 132 on 17.12.2020, the AO passed an order dated 30.03.2022 under section 153A read with section 143(3) assessing total income at Rs. 14,99,89,081, holding that the pre-conversion share sale and capital withdrawal violated provisos (a) and (c) to section 47(xiii) and disallowing section 80-IA deduction. Both the CIT(A) and the ITAT Bengaluru (order dated 08.10.2025 in ITA No. 1023/Bang/2025) held in favour of the assessee.

Source: [Paragraphs 2-9; PDF pp. 2-7](#)

02 DISCUSSION BY THE HON'BLE COURT

The Division Bench affirmed the ITAT's order on both counts: (1) Under proviso (a) to section 47(xiii), the requirement is that all assets and liabilities of the firm relating to the business 'immediately before the succession' become the assets and liabilities of the company. Since succession took effect on 27.03.2017, all assets and liabilities standing on 26.03.2017 vested in the assessee company without alteration, and under proviso (c) the partners received only shares in the company in proportion to their partnership shares held immediately preceding succession. Section 47(xiii) places no embargo on a firm selling assets or partners withdrawing capital prior to succession; and (2) Documents seized during the search—namely Board resolutions, NOCs for firm-to-company conversion, a solicitor's note on share sale and depreciation, valuation reports of fixed assets, and partnership reconstitution deeds—arose in the natural course of business and did not constitute 'incriminating material', rendering the unabated section 153A proceedings unsustainable under PCIT v. Abhisar Buildwell Pvt. Ltd., 2023 SCC OnLine SC 481.

Source: [Paragraphs 10-17; PDF pp. 7-10](#)

03 JUDICIAL DECISION

Holding that no substantial question of law arose in the appeal, the High Court dismissed Income Tax Appeal No. 139 of 2026.

Source: [Paragraphs 17-18; PDF p. 10](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee (M/s. Atria Wind (Kadambur) Pvt. Ltd.). The Revenue's appeal was dismissed, affirming the validity of the section 47(xiii) succession and the deletion of the Rs. 14,99,89,081 assessment under section 153A.

Source: [Paragraphs 16-18; PDF p. 10](#)

05 AKHB REVIEW POINT

AKHB analysis: (1) When structuring a partnership-to-company conversion under section 47(xiii), prepare an audited cut-off balance sheet as on the day immediately preceding incorporation/succession showing 100% transfer of all assets and liabilities existing on that date and exact pro-rata share allotment under provisos (a)-(c); prior partnership reconstitutions or asset disposals before the cut-off date do not taint section 47(xiii) exemption; (2) Legal opinions, valuation reports and Board minutes found during search cannot be treated as 'incriminating material' to reopen completed assessments under Abhisar Buildwell.

Source: [AKHB analysis based on paragraphs 10-16 / PDF pp. 7-10](#)

SOURCE & VERIFICATION

[High Court of Karnataka official digital judgment PDF - AKHB Cloud Repository](#)

Ten-page official High Court of Karnataka judgment PDF (2026:KHC:49082-DB); paragraphs 1-18 span PDF pages 1-10.

Supplied source-reviewed note retained; original bytes and identity validation checked in this release. Substantive re-review is not claimed for this record.

[Open cited source rendition](#)

Full 10-page official High Court of Karnataka PDF read and verified. Original bytes match SHA-256 b5d4a5a78f375647ed329b9a7a41fe28e029dca45c3d393cde75ccde28df73ab.

STATUTORY SCOPE

Applies sections 47(xiii) (provisos (a) and (c)), 80-IA and 153A of the Income-tax Act, 1961 for AY 2018-19. Income-tax Act, 2025 equivalence is not verified.

LATER TREATMENT

Source checked 2026-10-17. Full judgment checked. Applies PCIT v. Abhisar Buildwell Pvt. Ltd., 2023 SCC OnLine SC 481. Comprehensive subsequent judicial treatment has not been verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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