

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'A': NEW DELHI**

**BEFORE SHRI SAKTIJIT DEY, HON'BLE VICE PRESIDENT  
AND  
SHRI S.RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No.629/DEL/2024  
(Assessment Year: 2018-19)**

**ITA No.630/DEL/2024  
(Assessment Year: 2019-20)**

Aviexpert Pvt. Ltd.,  
E-178, East of Kailash,  
New Delhi – 110 065.

vs.

ITO, Ward 3 (1),  
New Delhi

**(PAN : AAICA7960L)**

**(APPELLANT)**

**(RESPONDENT)**

ASSESSEE BY : Shri Sanket Milind Joshi, CA  
REVENUE BY : Shri Kanv Bali, Sr. DR

Date of Hearing : 29.07.2024  
Date of Order : 23.08.2024

**ORDER**

**PER S.RIFAUR RAHMAN,AM:**

The assessee has filed appeals against the order of the Learned Commissioner of Income Tax (Appeals)-9, Mumbai[“Ld. CIT(A)”, for short]/National Faceless Appeal Centre (NFAC) dated 18.01.2024 for the Assessment Years 2018-19 & 2019-20.

2. Both the appeals are interconnected having common issues. Both the appeals are heard together and disposed off by this common order.

3. At the time of hearing, ld. AR for the assessee brought to our notice that for AY 2018-19, ld. CIT (A) had not condoned the delay in filing the appeal and submitted that there were total delay of 704 days out of which 614 days pertaining to Covid pandemic period which was to be excluded while computing the delay in view of the ratio laid down by Hon'ble Supreme Court in its order reported in 438 ITR 296 and the balance delay of 90 days was duly explained by the assessee which has to be condoned by the ld. CIT (A) in the interest of justice. However, ld. CIT (A) dismissed the appeal by not condoning the delay without appreciating the documentary evidences in the form of affidavit of Director and medical reports to substantiate the contrary evidences to prove that the delay was not intentional. For AY 2019-20, the ld. CIT (A) partly allowed the appeal. He submitted that ld. CIT (A) has not decided the issue on merit for AY 2018-19 and as the issues involved are same in both the assessment years i.e. 2018-19 & 2019-20, prayed that both the appeals may be remitted back to the AO with the prayer to decide the appeals after considering the documentary evidences and also giving an opportunity of being heard to the assessee.

3. On the other hand, ld. DR for the Revenue objected to the submissions of the ld. counsel for the assessee.

4. Considered the rival submissions and material placed on record. We observe that for AY 2018-19, there was a delay of 704 days in filing the appeal before the ld. CIT (A) and out of which, there was a delay of 614 days due to Covid pandemic period and there is only delay of 90 days. After going through the ratio laid down by Hon'ble Supreme Court in its order reported in 438 ITR 296, we condone the delay of

614 days and with regard to 90 days delay, we observe that there is reasonable ground to condone the delay in the form of affidavit filed. Further, we find that as the ld. CIT (A) has not decided the issues on merit for AY 2018-19 and the issues involved are same in both the assessment years i.e. 2018-19 & 2019-20 and also ld. AR for the assessee prayed that the matter may be remitted back to the Assessing Officer for considering the documentary evidences as the ld. CIT (A) did not decide the appeal on merits. The disallowance made by the Assessing Officer needs verification of the documentary evidence filed by the assessee. Therefore, in the interest of justice, we direct Assessing Officer to consider the documentary evidences and also give an opportunity of being heard to the assessee and then decide the matter on merit as per law in both the assessment years. We also direct assessee to make proper submissions and appear before Assessing Officer on the date of hearing and cooperate with the tax authorities. Accordingly, the appeals filed by the assessee are allowed for statistical purposes.

5. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

**Order pronounced in the open court on this 23<sup>rd</sup> day of August, 2024.**

Sd/-

**(SAKTIJIT DEY)  
JUDICIAL MEMBER**

sd/-

**(S.RIFAUR RAHMAN)  
ACCOUNTANT MEMBER**

Dated: 23.08.2024  
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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals).
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, NEW DELHI