

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'B', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
SH. YOGESH KUMAR US, JUDICIAL MEMBER**

ITA No.5606/Del/2019  
Assessment Year: 2013-14

<b>Cosmo Films Ltd. 1008, DLF Tower-A, Jasola District Centre, New Delhi-10025 PAN No.AAACC1152C (APPELLANT)</b>	<b>Vs</b>	<b>DCIT Circle – 6 (2) New Delhi (RESPONDENT)</b>
--	-----------	---

Appellant by	Sh. Amit Arora, CA
Respondent by	Sh. Vivek Kumar Upadhyay, Sr DR

Date of hearing:	07/08/2023
Date of Pronouncement:	07/08/2023

**ORDER**

**PER N. K. BILLAIYA, AM:**

This appeal by the assessee is preferred against the order of the CIT(A)-31, New Delhi dated 26.04.2019 pertaining to A.Y. 2013-14.

2. The grievance of the assessee read as under :-

1. *That on the facts and circumstances of the case and in law, the Ld. CIT(A) erred in*

*upholding the assessed income of the Appellant at Rs.19,20,40,130/- under section 154 / 143 (3) of the Act instead of Rs.9,94,15,630/-.*

2. *That on the facts and circumstances of the case and I law, the Id. CIT(A) erred in upholding the audition made by Ld. Assessing Officer (hereinafter referred as 'Ld. AO) on account of 'Sales Tax Subsidy' at Rs.9,48,35,932/- instead as of Rs.22,11,432/-.*

3. *That on the facts and circumstances of the case and in law, the Ld. CIT(A) erred in not appreciating the fact that the amount of Rs.9,48,35,932 includes 'Reversal of sales tax liability' of earlier years of Rs.9,26,24,500 which have already been disallowed in terms of Section 43B of the Act in the respective years viz. AY 2004-05 & 2005-06 and as such would lead to the said amount being taxed twice.*

4. *That on the facts and circumstances of the case and in law, the Ld. CIT(A) erred in not taking cognizance of the financial statements for AY 2013-14 viz-a-viz Tax Audit Report for AY 2004-05 & 2005-06 duly placed on record.*

3. Representatives of both the sides were heard at length. Case records carefully perused.

4. The bone of contention is the Sale Tax Subsidy which was in advertently mentioned in the computation as Rs.94835932/- and later on corrected at Rs.2211432/- . This correction was done by way of an application filed u/s.154 of the Act after the completion of the assessment vide order dated 27.10.2017 framed u/s. 143(3) of the Act r.w.s. 144C of the Act.

5. Both the lower authorities denied the correction of the figure in sale tax subsidy stating that the same should have been revised by way of revised return of income.

6. In our considered opinion both the lower authorities erred in taking this view in as much as any error which is apparent from record has to be rectified.

7. In the interest of justice and fair play we restore this issue to the files of the AO. The assessee is directed to furnish revised computation of income and the AO is directed to examine/ verify the same and decide the issue afresh after affording a reasonable and sufficient opportunity of being heard to the assessee.

8. In the result, the appeal of the assessee is allowed for statistical purpose.

9. Decision announced in the open court 07.08.2023.

Sd/-  
**[YOGESH KUMAR US]**  
**JUDICIAL MEMBER**

Dated: .08.2023

\*Neha\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CITi
4. CIT(A)
5. DR

Sd/-  
**[N.K. BILLAIYA]**  
**ACCOUNTANT MEMBER**

Asst. Registrar  
ITAT, New Delhi