

**(1991) 08 AHC CK 0028**

**Allahabad High Court**

**Case No:** Civil Miscellaneous Writ Petition No. 1146 of 1991

Radhey Shyam Jaiswal

APPELLANT

Vs

Income Tax Appellate Tribunal  
and Another

RESPONDENT

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**Date of Decision:** Aug. 20, 1991

**Acts Referred:**

- Income Tax Act, 1961 - Section 271(1)

**Citation:** (1992) 198 ITR 623

**Hon'ble Judges:** R.R. Misra, J; A.P. Misra, J

**Bench:** Division Bench

**Advocate:** Vikram Gulati, for the Appellant; Bharatji Agarwal, for the Respondent

**Final Decision:** Disposed Of

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### **Judgement**

A.P. Misra, J.

Heard learned counsel for the petitioner and also Sri Bharatji Agarwal, senior standing counsel for the Revenue.

2. The present writ petition is for a mandamus directing the Income Tax (Appellate) Tribunal, Allahabad, to decide the stay application of the petitioner pending before it for the assessment years 1978-79 to 1986-87, and for further directing the Assistant Commissioner, Investigation, Circle I (1), Kanpur, to stay the penalty proceedings u/s 271(1)(c) of the Income Tax Act pending before him.

3. The petitioner preferred an appeal before the Income Tax Appellate Tribunal on May 4, 1990, and also moved an application for stay on May 23, 1991, which is still pending before the said authority. The contention of learned counsel for the petitioner is that in spite of the stay application of the petitioner being pending, the respondent-authority concerned has initiated penalty proceedings against the petitioner and hence the present writ petition.

4. Having heard learned counsel for the parties, we find and, accordingly, direct the respondent-authority concerned either to decide the stay application dated May 23, 1991, or the appeal aforesaid itself filed by the petitioner before it within a period of one month from the date of producing a certified copy of this order by the petitioner before the said authority. The petitioner shall file a certified copy of this order along with another copy of the aforesaid stay application before the said authority concerned within two weeks from today.
5. The petitioner, after the disposal of the appeal/stay application aforesaid, shall also intimate the assessing authority concerned the consequence of the said appeal/stay application within two weeks thereafter.
6. Until the disposal of the said appeal/stay application, penalty proceedings pending before the Assistant Commissioner, Investigation, Circle I (1), Kanpur, for the assessment years 1978-79 to 1986-87 as against the petitioner shall remain stayed.
7. With the aforesaid observations, the present writ petition is finally disposed of.
8. A certified copy of this order may be given to the learned counsel for the petitioner on payment of usual charges within two days.