

Radhey Shyam Jaiswal Vs Income Tax Appellate Tribunal and Another

Court: Allahabad High Court

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

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.