

(1991) 07 AHC CK 0040
In the Allahabad High Court
Case No : Writ Petition No. 1329 of 1991

National Talkies, Sultanpur

APPELLANT

Vs

State of U.P.& Others

RESPONDENT

Date of Decision : 30-07-1991

Acts Referred:

Uttar Pradesh Entertainments and Betting Tax Rules, 1981 — Rule 65(2)

Citation : (1991) 07 AHC CK 0040

Hon'ble Judges : J.K.Mathur, J

Final Decision : Disposed Of

Judgement

J.K. Mathnr, J

1. This petition is directed against an order passed by the Special Secretary in the Finance Department rejecting the appeal filed by the petitioner on the ground that he had not served a copy of the appeal on the Entertainment Tax Commissioner as required under rule 65(2) of the rules made under the Entertainment Tax Act.
2. Under rule 65(2) of the aforesaid rules copy of grounds of appeal along with its enclosures is to be served on the persons against whose order appeal is preferred and the District Magistrate concerned.
3. The learned authority found that a copy of appeal and enclosures were not served and without that the appeal was not maintainable and dismissed on that ground alone.
4. This order has been challenged primarily on the ground that the petitioner, even if he was not found to have served copy on the opposite party, ought to have been given an opportunity to do so and on a technical view the appeal could not be thrown out on the mere ground that till that date a copy had not been served.
5. There provisions are not to be construed in the manner that may make justice

not available and in case there was default in complying with any of these provisions, the petitioner ought to have been given opportunity to comply with the provisions so that the appeal could be heard.

6. As a result, the order passed in the present case is hereby quashed. The appeal shall be heard by the State of U.P. afresh. The petitioner shall however, see that copies of the appeal and enclosures are furnished to the authorities mentioned in the aforesaid rules within ten days of the date of this order in case it has not already been done. If copies are not still made available, this order shall not be available to the petitioner. The writ petition is disposed of accordingly.