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**(2009) 09 AHC CK 0099**  
**In the Allahabad High Court**  
**Case No : Writ Petition No.961 (M/S) of 1992**

National Talkies, Sultanpur

APPELLANT

Vs

State of U.P.and Others

RESPONDENT

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**Date of Decision :** 16-09-2009

**Acts Referred:**

Uttar Pradesh Entertainments and Betting Tax Act, 1979 — Section 12, 24, 25

**Citation :** (2009) 09 AHC CK 0099

**Hon'ble Judges :** Satish Chandra, J

**Final Decision :** Partly Allowed

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## Judgement

Dr. Satish Chandra, J.—By this writ petition, the petitioner has challenged the order dated 30.3.1991 passed by the Entertainment Commissioner and order dated 9.1.1992 passed by the Special Secretary.

2. Sri S. K. Malhotra, learned counsel for the petitioner submits that at the relevant time, the petitioner was the owner of the National Talkies, Sultanpur. An inspection was held on 28.12.1990. During inspection, it was found that the film was showing as "Hawas Ka Pujari" but it was declared by the petitioner out side the Talkies that film was "Ram Balram". For this offence, the penalty of Rs.2,000/ was levied. Further, it was also found that there were 29 viewers without tickets. For this purpose, the penalty of Rs.2,000/ was also levied. Thus, total Rs.4,000/ penalty was levied. The tax of Rs.324/ was also levied. Being aggrieved, the petitioner has filed an appeal before the Special Secretary who has rejected the appeal vide its impugned order dated 9.1.1992. Counsel for the petitioner further submits that the film was changed in the talkies only on 28.12.1990 for "Hawas Ka Pujari", but the Board etc. were still lying for the film of "Ram Balram" which was showing till last evening. He further submits that police personnels usually go to the talkies without purchasing tickets. To this effect, necessary complaints were made before the District Magistrate time to time. Lastly, he made a request that the penalty may kindly be cancelled.

3. On the other hand, Sri Sanjai Sareen, learned Standing Counsel for the

opposite parties has justified the impugned orders.

4. By considering the totality of the facts and circumstances of the case, I am of the view that when film is changed necessary publicity is made out in the market to watch new film. No new film can be shown without due publicity and without information to the public as well as concerning authorities. In these circumstances, I am fully satisfied that the petitioner was showing the new film "Hawas Ka Pujari" by due publicity and information. Hence, there is no justification for levy of the penalty. For this offence, I cancel the penalty of Rs.2,000/ levied by the competent authority.

5. Regarding the unauthorised 29 police personnels, it may be mentioned that Section 25 of the U.P. Entertainment and Betting Tax Act, 1979 prescribes the maximum penalty of Rs.1,000/. So, in the instant case, the penalty will have to be levied only for Rs.1,000/. Regarding the tax evasion no interference is required by this Court. Therefore, both the impugned orders are modified and the petitioner will have to deposit only Rs.1,000/ penalty + Rs.324/ as tax evasion = Rs.1324/. Thus, for the balance amount the petitioner will get the relief.

6. In the result, the writ petition is partly allowed.

(Petition allowed partly)