IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 1535 of 2024

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK

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Approved for Reporting	Yes	No
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M/S MARUTI AGRO TRADERS
Versus
UNION OF INDIA & ANR.

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Appearance:
S A CHHABARIA(7740) for the Petitioner(s) No. 1
MR HARSHEEL D SHUKLA(6158) for the Respondent(s) No. 1,2

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CORAM:**HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK**

Date : 06/05/2026

JUDGMENT

1. RULE returnable forthwith. Learned counsel Mr. Harsheel Shukla, waives service of notice of Rule for and on behalf of the respondents.

2. With the consent of the learned counsels for the parties, the matter is taken up for final hearing and disposal.

3. By way of present petition under Article 226 of the Constitution of India, petitioner has prayed for the following reliefs :

"(A) To issue a Writ of Certiorari or Writ of Mandamus or appropriate writ, direction or order setting aside the impugned Notification dated 25/03/2022

issued by the Respondent No. 1, withdrawing the Notification dated 09/09/2021 bearing F No. 17/02/2021-EP (Agri. IV) "Revised Transport and Marketing Assistance (TMA) for Specified Agriculture Products Scheme with effect from 01/04/2021 therefore resulting in reinforcement of Notification dated 09/09/2021. Annex-' G'

(B) To issue a Writ of Mandamus or appropriate writ, direction or order directing the Respondents to release the eligible amount to the Petitioner till the Scheme being in force vide Notification dated 09/09/2021 and Petitioner fulfilment of the criteria therein.

(C) To issue a Writ of Mandamus or appropriate writ, direction or order directing the Respondent No. 2 to re-open the TMA Incentive Scheme and extend the validity of the Handbook of Procedures, 2015-2020 till 31/03/2022 and accept claims of refund till 31/03/2022. Annex.- 'F'

(D) Any other order/direction, which Hon'ble Court deems appropriate in the interest of justice and for such Act of kindness, the Petitioner as is duty bound, shall ever pray."

4. Brief facts giving rise to the present petition are that, the petitioner is a registered exporter holding the Importer Exporter Code ("IEC code" for short) engaged in the business of Export of Rapeseed meal, Castor seed Extraction, Groundnut Extraction Meal etc to various countries outside India. That, the Government of India through Ministry of Commerce & Trade Introduced TMA Scheme in the Foreign Trade Policy (2015-20) on 01.03.2019 which was effective till 31/03/2020 with an aim to provide assistance for the component of freight and marketing for agricultural produce caused to promote brand recognition for Indian agricultural products in the specified overseas markets. That, the eligibility criteria for TMA included all the exporters of eligible agriculture products, registered with the relevant Export Promotion Council, as per the Foreign Trade. That, the TMA scheme aimed to reimburse the part amount of freight paid (sea and air) by the exporter and also the marketing costs involved in the promotion of the product for export of eligible agriculture products to the permissible countries, as specified from time to time. That, the

petitioner, being eligible under the "TMA" scheme, availed such benefit, renegotiated with the Prospective foreign buyers, considering the refund of the transportation cost under the TMA scheme and reduced the export price of the agricultural products, being exported. That, the petitioner duly complied with the procedure as laid down under the TMA scheme and claimed refund of the transport and marketing expenses paid by filing returns. That, the respondent No. 2 vide Notification No. 57/2015-2020 made amendments in the Foreign Trade Policy 2015-2020 and Extended the said TMA scheme till 31/03/2021. That, the TMA Scheme received remarkable response from the Exporter fraternity and growth in trade and commerce and therefore, the respondent No. 2 again vide Notification No. 60/2015-2020 made amendments in the Foreign Trade Policy 2015-2020 extending the TMA scheme till 30/09/2021. That, the respondent No. 2 vide Public Notice No. 14/2015-2020 amended Chapter 7(A) of the Handbook of Procedures (2015-2020) adding that the claims for assistance under the TMA scheme for quarter ending on 31/03/2020 and 30/06/2020 could be filed upto 30/09/2021. That, the respondent No. 1 Vide Notification Bearing No. 17/02/2021-E (Agri. IV) introduced "Revised Transport and Marketing Assistance (TMA) for Specified Agriculture Products Scheme" for the exports effected on or after 01/04/2021, whereby the said TMA scheme was applicable for the exports effected from 01/04/2021 to 31/03/2022. That, in compliance to above Notification bearing F No. 17/02/2021-EP (Agri. IV) for the exports effected on or after 01/04/2021 introduced by the respondent No. 1, the respondent No. 2 vide Notification No. 33/2015-2020 extended the scheme till 31/03/2022. That, the respondent No. 1 abruptly vide Notification Withdrew And Foreclosed the Notification dated 09/09/2021 bearing F No. 17/02/2021-EP (Agri. IV) "Revised

Transport and Marketing Assistance (TMA) vide Notification dated 25.03.2022. That, vide Notification issued on 25/03/2022 the TMA scheme was foreclosed / withdrawn whereby, the TMA scheme which was to be effective till 31/03/2022 under earlier notification dated 09/09/2021 bearing F No. 17/02/2021-EP (Agri. IV) was withdrawn retrospectively whereby, the TMA would remain effective till 31/03/2021, correspondingly the respondent No. 2 vide Notification dated 31/03/2022 bearing Public Notice No. 53/2015-2020 extended the validity of the Handbook of Procedures, 2015-2020 till 30/09/2022.

5. Being aggrieved and dissatisfied with the action and inaction on the part of the respondent authorities, present petition is preferred.

6. Heard Mr. S.A. Chhabaria, learned counsel appearing on behalf of the petitioner and Mr. Harsheel Shukla, learned counsel appearing on behalf of the respondents.

7. Learned counsel for the petitioner has submitted that because the TMA scheme introduced by the respondent No. 1 to promote foreign trade and commerce, whereby refund of the transportation and marketing assistance upon export of certain agricultural products to certain countries was assured, the Petitioner, being eligible, under the said TMA scheme, relying upon the said TMA scheme of the Government, readjusted the rates and margins with the prospective buyers and executed the exports accordingly, and hence, the sudden and abrupt withdrawal of the scheme with retrospective has left the petitioner to the situation whereby huge financial losses along with suspension of further export business is inevitable. He has submitted that on the introduction of Notification dated 09/09/2021 bearing F

No. 17/02/2021-EP (Agri. IV) "Revised Transport and Marketing Assistance (TMA) for Specified Agriculture Products Scheme" by the respondent No.1, the petitioner carried out the foreign trade at the concessional price, trusting that the claim refund of the Transportation and Marketing assistance from the respondent No. 1 under the scheme till 31.03.2022 would be issued. He has submitted that the respondent No. 1, despite being a public body is, not exempted from liability to carry out its obligation arising out of representations made which are adopted by a citizen in good faith In the present matter. Upon the representation in form of Introduction of Notification dated 09/09/2021 by the respondent No.1, the petitioner had acted in accordance with the terms of TMA scheme and exported the specific agricultural products to the specific countries at revised concessional rates, whereby the respondent No. 1 cannot be permitted to misuse its authority arbitrarily to refute its obligation arising against declared TMA scheme. He has submitted that the retrospective withdrawal of the Notification dated 09/09/2021 is clearly against the Principle of Doctrine of Promissory Estoppel. Learned counsel for the petitioner has referred and relied upon the decision of the Division Bench of this Court passed in Special Civil Application No.17285 of 2025 and other allied matters, wherein, the very same Notification dated 25.03.2022 has been challenged before the Division Bench and the Division Bench vide order dated 05.02.2026 has quashed and set aside the said Notification dated 25.03.2022 and therefore, learned counsel for the petitioner has surged that the present petition be allowed.

8. On the other hand, learned counsel for the respondents has submitted that the Ministry of Commerce has precisely decided to

withdraw the policy as the government intended to foreclose the Scheme to revamp, redesign and refocus. It is submitted that the subsidy is a matter of privilege of the Central Government and it cannot be enforced as a right and it can be withdrawn any time. It is thus submitted that no fundamental right of the petitioner has been violated. Thus, it is urged that the writ petitions may not be entertained, however, he was unable to controvert the order passed by the Division Bench in Special Civil Application No.17285 of 2025 and other allied matters and urged that appropriate orders may be passed.

9. I have heard the learned counsel appearing for the respective parties and perused the material placed on record. I have also gone through the order passed by the Division Bench as aforesaid. After considering both the notifications issued by the Central Government, referring and relying upon the decision of the Hon'ble Apex Court rendered in the case of **Viraj Impex Pvt Ltd Vs. Union of India & Anr., 2026 INSC 80** and in case of **Director General of Foreign Trade and Anr. Vs. Kanak Exports & Anr., (2016) 2 SCC 226** and after examining the provisions of Section 5 of the Act, the Division Bench has allowed the petitions and quashed and set aside the Notification in view of the observations made by the Hon'ble Apex Court that *Section 5 of the Act neither permits/empowers the Government to make amendments with retrospective effect, nor it allows to close the Scheme retrospectively, thereby taking away the rights which have already accrued in favour of the exporters under the Scheme*.

10. For the foregoing reasons, the present petition is allowed. The

impugned Notification dated 25.03.2022 abolition/foreclosing the Scheme introduced vide Notification dated 09.09.2021 retrospectively is hereby quashed and set aside. The Notification dated 25.03.2022 shall become effective from the date it was issued. Accordingly, the respondents are directed to give the consequential effect of this order and process the application filed by the petitioner in view of the Scheme. All the benefits accruing till the issuance of Notification dated 25.03.2022 shall be extended to the petitioner, including raising claims for the period prior to the issuance of impugned Notification, for which the petitioner was prevented from filing application. The claim/application shall be processed and the amount shall be paid within a period of **four months** from the date of receipt of writ of this order. Rule made absolute to the aforesaid extent. There shall be no order as to costs.

(HEMANT M. PRACHCHHAK,J)

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