



2023 : DHC : 8514-DB



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 15279/2023

CHILLIES EXPORTERS ASSOCIATION INDIA Petitioner

Through: Mr.Manish Mishra, Advocate with
Ms.Meghna Mittal and Ms.Shikha
Parmar, Advocates.

versus

DIRECTORATE GENERAL OF FOREIGN TRADE & ANR.

..... Respondents

Through: Mr.Kirtiman Singh, CGSC with
Mr.Waize Ali Noor, GP, Ms.Shreya
V.Mehra and Mr.Varun Rajawat,
Advocates for R-1 and R-2.

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Date of Decision : 28th November, 2023

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MINI PUSHKARNA

JUDGMENT

MANMOHAN, ACJ : (ORAL)

1. Present petition has been filed seeking a direction to Respondent No.1 to permit the Petitioner to apply for incentives under the Transport and Marketing Assistance for Specified Agriculture Products Scheme dated 09th September, 2021 ("**revised TMA scheme**"), which was foreclosed vide gazette notification dated 25th March, 2022 ("**impugned notification**").
2. Learned counsel for the Petitioner states that the Petitioner is aggrieved by the failure of Respondent No.1 to perform its legal duties to



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the extent it did not operationalize and implement the revised scheme issued by Respondent No. 2 for exports effected during 01st April, 2021 to 31st March, 2022 vide Notification dated 09th September, 2021, which intended to grant incentive to exporters of specified agricultural products by way of part-reimbursement of their international freight cost, including assistance for marketing cost incurred.

3. He states that acting on the assurance that incentives would be granted for exports effected during the period 01st April, 2021 to 31st March, 2022, the exporters negotiated and fixed the export prices with the importers located outside India suitably. He states that subsequently, when the exporters tried to submit their applications to avail incentives under the scheme on the online portal operated and maintained by Respondent No.1, the same could not be submitted due to lack of functionality of the Director General of Foreign Trade ('DGFT') portal.

4. He states that in the meanwhile, Respondent No. 2 issued Notification dated 25th March, 2022 foreclosing and withdrawing the revised TMA scheme and as a consequence, the exporters have not been able to avail benefits under the scheme for exports effected during the period 01st April, 2021 to 25th March, 2022.

5. Learned counsel for the Petitioner contends that the failure of Respondent No.1 to operationalize and implement the TMA scheme and non-operability of DGFT portal cannot be the basis for denying accrued and vested incentives of the exporters.

6. Though the lack of functionality of DGFT portal has been averred, yet keeping in view the fact that the Petitioner has directly approached this Court without filing any documents to show non-functionality of the portal



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and without making any written representation to DGFT, this Court directs the present writ petition to be treated as a representation and to be decided by the competent authority in the Office of DGFT by way of a reasoned order within twelve weeks. The Petitioner is given liberty to file additional documents with the DGFT within three weeks. This Court clarifies that it has not expressed any opinion on the merits of the controversy. The rights and contentions of all the parties are left open.

7. With the aforesaid direction and liberty, the present writ petition stands disposed of.

ACTING CHIEF JUSTICE

MINI PUSHKARNA, J

NOVEMBER 28, 2023/TS