



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 09th JANUARY, 2024

IN THE MATTER OF:

+ **W.P.(C) 11649/2023 & CM APPL. 45470/2023**

VI EXPORTS INDIA PRIVATE LIMITED

..... Petitioner

Through: Mr. Vivek Kohli, Sr. Advocate with
Mr. Sarthak Sachdev, Mr. Ashish
Batra and Ms. Bhavya Bhatia,
Advocates.

versus

UNION OF INDIA, MINISTRY OF COMMERCE AND
INDUSTRY, DEPARTMENT OF COMMERCE THROUGH
DIRECTOR GENERAL, DIRECTORATE GENERAL OF
FOREIGN TRADE Respondent

Through: Mr. Asheesh Jain, CGSC with Mr.
Gaurav Kumar, Mr. Rahul Kumar
Sharma, GP and Mr. S. K. Mohapatra,
DDG (DGFT).

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The instant writ petition has been filed with the following prayers:

"(i) Issue a writ, order or direction in the nature of mandamus or any other appropriate writ thereby issuing necessary directions to the Respondent to permit the petitioner to export 11,000 MT's of non-basmati white rice for which shipping bills had been filed by the petitioner and the rotation number of the vessel has also been generated, prior to 21:51:01 hours on 20.07.2023;

(ii) Pass such other or further order which this



Hon'ble Court may deem fit and proper in the interest of justice."

2. The Petitioner, who is an exporter of rice and other agricultural products, received an Order from its overseas buyer M/s Indi Sino Trade Pte Ltd for sale of 40,000 MT of rice which was to be exported from Kandla Port in Gujarat. It is stated that in terms of the said order, the Petitioner purchased 28,000 MT of rice from its various vendors and started the process of packaging of rice and transportation to Kandla. It is stated that the Petitioner, thereafter, requested the Port Authority at Kandla to grant permission to the Petitioner to store the 28,000 MT of rice. However, due to space constraints at the port, the port authorities gave permission to store only 11,000 MT of rice. It is stated that the Petitioner stored about 11,000 MT of rice inside the port and the balance quantity of rice was stored at various private warehouses in Kandla. It is stated that the Petitioner duly filed 28 Shipping Bills for export of 28,000 MT of rice at the customs portal between 10.07.2023 and 12.07.2023. It is stated that out of 28 shipping bills, export duty for 17 shipping bills was paid by the Petitioner. It is stated that in the interregnum, a Notification bearing No.20/2023 dated 20.07.2023 was issued by the Department of Commerce, Government of India prohibiting the export of "Non-basmati white rice (semi-milled or wholly milled rice, whether or not polished or glazed: other)". Since the effect of the said notification would be on all pending exports, certain exemptions were granted to the consignments of Non-basmati rice in the Notification bearing No.20/2023 dated 20.07.2023 which reads as under:

"Subject: Amendment in Export Policy of Non-basmati rice under HS Code 1006 30 90.



S.O. (E) The Central Government, in exercise of powers conferred by Section 3 read with section 5 of the Foreign Trade (Development & Regulation) Act, 1992 (No. 22 of 1992), as amended, read with Para 1.02 and 2.01 of the Foreign Trade Policy, 2023, hereby amends the Export Policy of Non-basmati rice against ITC (HS) code 1006 30 90 of Chapter 10 of Schedule 2 of the ITC (HS) Export Policy, as under:

<i>ITC HS Codes</i>	<i>Description</i>	<i>Export Policy</i>	<i>Revised Export Policy</i>
<i>1006 30 90</i>	<i>Non-basmati white rice (Semi-milled or wholly milled rice, whether or not polished or glazed: Other)</i>	<i>Free</i>	<i>Prohibited</i>

2. The Notification will come into immediate effect. The provisions as under Para 1.05 of the Foreign Trade Policy, 2023 regarding transitional arrangement shall not be applicable under this Notification for export of Non-basmati rice. Consignments of Non-basmati rice will be allowed to be exported under following conditions:

i. where loading of Non-basmati rice on the ship has commenced before this Notification;

ii. where the shipping bill is filed and vessels have already berthed or arrived and anchored in Indian ports and their rotation number has been



allocated before this Notification; The approval of loading in such vessels will be issued only after confirmation by the concerned Port Authorities regarding anchoring/berthing of the ship for loading of Non-basmati rice prior to the Notification;

iii. where Non-basmati rice consignment has been handed over to the Customs before this Notification and is registered in their system / where Non-basmati rice consignment has entered the Customs Station for exportation before this Notification and is registered in the electronic systems of the concerned Custodian of the Customs Station with verifiable evidence of date and time stamping of these commodities having entered the Customs Station prior to 20.07.2023. The period of export shall be upto 31.08.2023.

iv. Export will be allowed on the basis of permission granted by the Government of India to other countries to meet their food security needs and based on the request of their Government.

3.Export of Organic Non-basmati rice will be governed in accordance with Notification No.03/2015-2020 dated 19th April, 2017 read with Notification No.45/2015-2020 dated 29th November, 2022.

*4. Effect of this Notification:
Export Policy of Non-basmati white rice (Semi-milled or wholly milled rice, whether or not polished or glazed: Other) under HS code 1006 30 90 is amended from 'Free' to "Prohibited".*

3. Para (iii) of the aforesaid Notification was further amended vide Notification No.29/2023 dated 29.08.2023. Notification dated 29.08.2023



reads as under:

" Subject: - Amendment in Export Policy of Non-basmati rice under HS Code 1006 30.90.

S.O. (E) The Central Government, in exercise of powers conferred by Section 3 read with section 5 of the Foreign Trade (Development & Regulation) Act, 1992 (No. 22 of 1992), as amended, read with Para 1.02 and 2.01 of the Foreign Trade Policy, 2023, hereby in relaxation of Notification No.20/2023 dated 20 July, 2023 allows export of non-basmati white rice under any of the following conditions:

i. The Notification No.20/2023 [S.O. 3249(E)] dated 20th July, 2023, was published in the Gazette of India at 21:57:01 hours on 20.07.2023. Therefore, Para 2 (iii) of Notification No.20/2023 (S.O. 3249(E)] dated 20th July, 2023 is amended as under:

"where Non-basmati rice consignment has been handed over to the Customs before 21:57:01 hours on 20.07.2023 and is registered in Customs system or where Non-basmati rice consignment has entered the Customs Station for exportation before 21:57:01 hours on 20.07.2023 and is registered in the electronic systems of the concerned Custodian of the Customs Station with verifiable evidence of date and time stamping of these commodities having entered the Customs Station prior to 21:57:01 hours on 20.07.2023. The period of export shall be upto 30.10.2023.

ii. Export duty is paid before 21.57:01 hours on 20.07.2023."

2 For removal of doubts, wherever the words/phrase "before this Notification" appears in the Notification No.20/2023 [S.O. 3249(E)] dated 20 July, 2023, the



same shall mean "before 21:57:01 hours on 20.07.2023"

3. Effect of this Notification:

In relaxation of Notification No.20/2023 dated 20 July, 2023 export of non-basmati white rice is allowed when export duty is paid before 21:57:01 hours on 20.07.2023. Para 2 (iii) of Notification No.20/2023 dated 20 July, 2023 is amended to specify the date and time of effect of the Notification No. 20/2023 dated 20 July, 2023.

4. A perusal of the notification, therefore, shows that the notification was brought in with a view to impose an immediate ban on the export of Basmati rice and the permission to export basmati rice was only in certain circumstances. A perusal of the amendment shows that the time by which the details of the consignment had to be entered into the system was clearly mentioned. A separate category was also introduced whereunder if the customs duty is paid before 21:57:01 hours on 20.07.2023, then the consignment could be permitted for export.
5. It is stated that since the Petitioner had only paid the export duty for 17 shipping bills prior to the stipulated time i.e., 21:57:01 hours on 20.07.2023 out of 28 shipping bills, the Petitioner was only permitted to export 17,000 MT of rice which is covered under 17 shipping bills and was not permitted to export the remaining 11,000 MT.
6. It is pertinent to mention here, at this juncture, that the vessel in which rice was to be loaded was berthed at the port only on 22.07.2023. However, the rotation number of vessel was obtained on 18.07.2023.
7. Aggrieved by the fact that the Petitioner has not been permitted to



export the remaining 11,000 MT of rice, the instant writ petition has been filed by the Petitioner for a direction to the Respondent to permit the Petitioner to export 11,000 MT of Non-basmati rice for which shipping bills had been filed by the Petitioner and the rotation number had also been generated.

8. Notice was issued in the writ petition 04.09.2023. Pleadings are complete.

9. Learned Senior Counsel appearing for the Petitioner contends that the purpose of issuing the Notification dated 20.07.2023 was to ensure that no unplanned exports which were not contemplated prior to the issuance of Notification should be permitted. He states that the genuine exporters cannot be penalised. He states that the exporters were not warned about the Notification which came suddenly on 20.07.2023. He states that before the Notification was issued, there was a valid purchase order dated 03.07.2023 with the Petitioner from its overseas buyer. The advance for the said export had been received by the Petitioner much before the notification. He states that the Petitioner had also procured the rice much prior to the notification and started the process of packaging of rice and transportation to Kandla Port. It is contended by the learned Senior Counsel for the Petitioner that the Petitioner applied before the Port Authority at Kandla on 15.07.2023 for grant of permission to the Petitioner to store 28,000 MT of rice. However, due to lack of space at the port, the port authority gave permission to store only about 11,000 MT of rice. He states that 28 Shipping Bills were filed for export of 28,000 MT of rice at the customs portal between 10.07.2023 and 12.07.2023 which is prior to the time specified in the Notification. He states that the vessel call number (VCN) and the customs rotation number were



also issued to the Petitioner on 18.07.2023 which is prior to the issuance of the Notification dated 20.07.2023. He states that the export duty for 17 shipping bills have already been paid by the Petitioner. He, therefore, states that the present case of a genuine exporter who was in the process of paying the entire export duty for the balance 11,000 MT of rice but despite the Petitioner's best efforts it could not make the payment of export duty because the portal refused to accept the payment after 20.07.2023. He states that the Notification dated 20.07.2023 must be interpreted purposively. He states that the purpose of granting exemption in the Notification was to ensure that the genuine exporters are not harassed and are able to fulfil their export obligations which will bring valuable foreign exchange to the country.

10. Learned Senior Counsel for the Petitioner places reliance upon a Judgment dated 12.10.2022 passed by the High Court of Andhra Pradesh at Amaravathi in **W.P.(C) Nos. 32049/2022, 33016/2022, 33156/2022** in a matter pertaining to export of broken rice wherein the High Court of Andhra Pradesh opined that the purpose of giving exemption was to protect the exporters who had already acted on the existing policy and a change in policy would cause loss to the exporters and the Petitioner therein was permitted to export the rice. Learned Senior Counsel for the Petitioner also places reliance upon certain other Judgments which have followed the aforesaid Judgment dated 12.10.2022 passed by the High Court of Andhra Pradesh.

11. Learned Senior Counsel for the Petitioner places reliance on the judgment dated 27.09.2023, passed by the High Court of Gujarat at Ahmedabad in Special Civil Application No.16017/2023, titled as M/s Maya



Agri Impex Pvt. Ltd. v. Union of India, wherein the High Court of Gujarat has permitted export in a case where the Petitioner therein had to export his goods from Kandla but the vessel instead of reaching Kandla had reached Bhavnagar. Learned Senior Counsel for the Petitioner, therefore, contends that even though all the conditions had not been satisfied, yet the High Court of Gujarat had permitted the clearance and unloading of the goods by directing the clearance of the loading of the goods covered under various shipping bills. He contends that even in the present case, the vessel had arrived within the territorial waters of India prior to the date on which notification bearing No. 20/2023 came into force but could not be anchored because of lack of permission from the port authorities.

12. Learned Senior Counsel for the Petitioner also contends that purposeful interpretation of conditions Para (ii), (iii) and (iv) of the notification dated 20.07.2023 and the amendment dated 29.09.2023 would show that the Petitioner took all possible steps and could not do any further. He states that the Petitioner filed all the shipping bills prior to the issuance of the Notification. He also states that the rotation number has been issued. He further states that the Petitioner applied for storage of the entire quantity of 28,000 MT, however, due to lack of storage space at the port, permission was given to store only 10,525 MT of rice. He, therefore, states that the Notification has substantially been complied with by the Petitioner and, therefore, Doctrine of Substantive compliance must be applied in the case of the Petitioner who is a genuine exporter.

13. *Per contra*, learned Counsel appearing for the Respondent contends that the effect of the Notification bearing No.20/2023 dated 20.07.2023 and the subsequent amendment to the said Notification *vide* Notification



No.29/2023 dated 29.08.2023 is that after the prohibition of export of Non-basmati rice w.e.f from 21:57:01 hours on 20.07.2023, no exporter can be permitted to export non-basmati rice until and unless all the conditions are fulfilled as mentioned in the Notification. The exporters cannot take the benefit of the exemption as provided under the Notification without fulfilling the conditions in the notification. He states that the purpose of bringing out the Notification was to protect the food security of the country because the price of non-basmati rice was increasing in the country.

14. Learned Counsel for the Respondent further states that the vessel had not berthed in the port and the loading of the goods had not started at the time notification No. 20/2023 came about. He states that the vessel had arrived at Kandla Port on 22.07.2023 after the notification. He states that the consignment of 11,000 MT of rice was not handed over to the customs authorities before 21:57:01 hours on 20.07.2023. He, therefore, states that the goods had not entered the customs station for the purpose of export and were also not registered in the electronic systems of the concerned Custodian of the Customs Station. Export duty was also not paid for 11,000 MT prior to 21:57:01 hours on 20.07.2023. He, therefore, states that since none of the conditions have been satisfied by the Petitioner, the decision of the Respondent to permit the Petitioner to export only 17,000 MT of rice for which export duty was paid and exclude 11,000 MT of rice which had not been entered into the customs station for exportation and were not registered in the electronic systems of the concerned Custodian of the Customs Station and for which no export duty was paid before the appointed time and date i.e., before 21:57:01 hours on 20.07.2023 does not require any interference.

15. Heard learned Counsel appearing for the Parties and perused the



material on record.

16. A perusal of the Notification bearing No.20/2023 dated 20.07.2023 and the subsequent amendment to the said Notification *vide* Notification No.29/2023 dated 29.08.2023 indicates that there are five conditions which are to be fulfilled to get exemption for exporting "Non-basmati white rice (semi-milled or wholly milled rice, whether or not polished or glazed: other)" which has been prohibited by the Government by the issuing the said Notifications. The Government by the said Notifications decided to prohibit completely the export of Non-basmati rice primarily in view of the rising price of the same in the market as huge quantity of rice was being exported from the country which had led to scarcity of non-basmati rice in the country and a consequent increase in prices for the same.

17. Notification No.20/2023 dated 20.07.2023 states that the decision of ban on export of Non-basmati rice will come into immediate effect. However, the said Notification has allowed the export of consignments of Non-basmati rice subject to the conditions as mentioned in the Notification. The first paragraph of the said Notification states that "where loading of Non-basmati rice on the ship has commenced before this Notification". This condition has not been satisfied by the Petitioner for the reason that the ship had not berthed in Kandla Port before the issuance of Notification. The second paragraph under which consignment could be permitted to be exported consists of several conditions which are " (i) where the shipping bill is filed; (ii) vessels have already berthed or arrived; (iii) anchored in Indian ports and their rotation number has been allocated before this Notification; (iv) approval of loading in such vessels has been issued after confirmation by the concerned Port Authorities regarding



anchoring/berthing of the ship for loading of non-basmati rice prior to the Notification". The Petitioner had filed the shipping bills and had received the vessel call number (VCN) and the customs rotation number but the vessel had not berthed or arrived and anchored in Indian port, and therefore, this condition has also not been satisfied by the Petitioner. The third paragraph states that "where Non-basmati rice consignment has been handed over to the Customs before this Notification and is registered in their system / where Non-basmati rice consignment has entered the Customs Station for exportation before this Notification and is registered in the electronic systems of the concerned Custodian of the Customs Station with verifiable evidence of date and time stamping of these commodities having entered the Customs Station prior to 20.07.2023. The period of export shall be upto 31.08.2023". The third paragraph was amended by the notification dated 29.08.2023. The said amendment specified the time limit on 20.07.2023 by which time the non-basmati rice had to be handed over to the customs stations and registered in the system. The said paragraph also provides that even if the non-basmati rice consignment had not been handed over to the customs station but had entered the customs station for exportation and registered with the system of the concerned Custodian of the customs station with verified date and time of stamping had been entered into the customs station prior to 21:57:01 hours on 20.07.2023, the consignment was exempted from the notification and could be exported if export duty has been paid. One more exemption was added under which if export duty had been paid before 21:57:01 hours on 20.07.2023, then the exporter could export the non-basmati rice. The last paragraph is not applicable in the present case because no permission has been granted by the Government of



India for export to the country to which rice was to be exported to meet its food security needs.

18. A perusal of the third paragraph after amendment indicates that either the consignment of non-basmati rice should have been handed over to the Customs before 21:57:01 hours on 20.07.2023 and the consignment of Non-basmati rice handed over to the customs has been registered in Customs system OR the non-basmati rice consignment has been entered the Customs Station for exportation before 21:57:01 hours on 20.07.2023 and is registered in the electronic systems of the concerned Custodian of the Customs Station with verifiable evidence of date and time stamping of these commodities having entered the Customs Station prior to 21:57:01 hours on 20.07.2023. A perusal of the facts of the present case does not indicate that the consignment of Non-basmati rice for remaining 11,000 MT rice was handed over to the customs before 21:57:01 hours on 20.07.2023 and was registered in Customs system or the Non-basmati rice consignment had entered the Customs Station for exportation before the appointed time and has been registered in the electronic systems of the concerned Custodian of the Customs Station with verifiable evidence of date and time stamping of these commodities having entered the Customs Station prior to 21:57:01 hours on 20.07.2023. Admittedly out of 28,000 MT of rice only about 11,000 MT of rice could be stored in the warehouse of the port due to space crunch. Paragraph (iii)(i) of the amended notification dated 29.08.2023 was not fulfilled.

19. Further, the Petitioner had paid the export duty only for 17,000 MT. The Petitioner, thus, has been permitted to export the same and the remaining 11,000 MT of rice for which export duty was not paid were not



allowed to be exported.

20. The Government is in the best position to decide what is best for the interest of the national economy and Courts cannot dictate or sit in appeal as to how policies are to be framed. Policy making is exclusively within the province of the Government and such matters do not ordinarily attract the power of judicial review. The Government in its wisdom and taking into account the relevant factors has come out with a decision to ban export of Non-basmati rice in the country. The Government has also with its wisdom has carved out certain exemptions.

21. The Notification bearing No.20/2023 dated 20.07.2023 and the subsequent amendment to the said Notification *vide* Notification No.29/2023 dated 29.08.2023 issued by the Government are not under challenge in the instant writ petition. What the Petitioner is actually seeking is a writ of mandamus to compel the Government to breach its own Notification for which a writ of mandamus cannot lie. It is well settled that a writ of mandamus cannot lie to compel the State to act contrary to law. No mandamus can be issued directing the Government not to enforce its own Notification unless and until it is violative of Article 14 of the Constitution of India.

22. The Apex Court in State of West Bengal vs. Subhas Kumar Chatterjee, (2010) 11 SCC 694 has categorically held that no mandamus lies for issuing directions to a Government to refrain from enforcing a provision of law and no court can issue mandamus directing the authorities to act in contravention of the rules as it would amount to compelling the authorities to violate law and such directions may result in destruction of rule of law.

23. It is also well settled that exemptions in Notifications have to be



construed strictly. [Refer: Commr. of Customs (Imports) v. Tullow India Operations Ltd., (2005) 13 SCC 789, A.P. Steel Re-Rolling Mill Ltd. v. State of Kerala, (2007) 2 SCC 725, Collector of Customs (Preventive) v. Malwa Industries Ltd., (2009) 12 SCC 735 and CCE v. Parle Exports (P) Ltd., (1989) 1 SCC 345)]

24. The Apex Court in CCE v. Hari Chand Shri Gopal, (2011) 1 SCC 236 has held as under:

"Exemption clause — Strict construction

29. The law is well settled that a person who claims exemption or concession has to establish that he is entitled to that exemption or concession. A provision providing for an exemption, concession or exception, as the case may be, has to be construed strictly with certain exceptions depending upon the settings on which the provision has been placed in the statute and the object and purpose to be achieved. If exemption is available on complying with certain conditions, the conditions have to be complied with. The mandatory requirements of those conditions must be obeyed or fulfilled exactly, though at times, some latitude can be shown, if there is a failure to comply with some requirements which are directory in nature, the non-compliance of which would not affect the essence or substance of the notification granting exemption.

30. In Novopan India Ltd. [1994 Supp (3) SCC 606] this Court held that a person, invoking an exception or exemption provisions, to relieve him of tax liability must establish clearly that he is covered by the said provisions and, in case of doubt or ambiguity, the benefit of it must go to the State. A Constitution Bench of this Court in Hansraj Gordhandas v. CCE and Customs [AIR 1970 SC 755 : (1969) 2 SCR 253] held



that (*Novopan India Ltd. case* [1994 Supp (3) SCC 606] , SCC p. 614, para 16)

“16. ... such a notification has to be interpreted in the light of the words employed by it and not on any other basis. This was so held in the context of the principle that in a taxing statute, there is no room for any intendment, that regard must be had to the clear meaning of the words and that the matter should be governed wholly by the language of the notification i.e. by the plain terms of the exemption.”

31. Of course, some of the provisions of an exemption notification may be directory in nature and some are mandatory in nature. A distinction between the provisions of a statute which are of substantive character and were built in with certain specific objectives of policy, on the one hand, and those which are merely procedural and technical in their nature, on the other, must be kept clearly distinguished. In *TISCO Ltd.* [(2005) 4 SCC 272] this Court held that the principles as regard construction of an exemption notification are no longer *res integra*; whereas the eligibility clause in relation to an exemption notification is given strict meaning wherefor the notification has to be interpreted in terms of its language, once an assessee satisfies the eligibility clause, the exemption clause therein may be construed literally. An eligibility criteria, therefore, deserves a strict construction, although construction of a condition thereof may be given a liberal meaning if the same is directory in nature.

32. The doctrine of substantial compliance is a judicial invention, equitable in nature, designed to avoid hardship in cases where a party does all that can reasonably be expected of it, but failed or faulted in



some minor or inconsequential aspects which cannot be described as the “essence” or the “substance” of the requirements. Like the concept of “reasonableness”, the acceptance or otherwise of a plea of “substantial compliance” depends upon the facts and circumstances of each case and the purpose and object to be achieved and the context of the prerequisites which are essential to achieve the object and purpose of the rule or the regulation. Such a defence cannot be pleaded if a clear statutory prerequisite which effectuates the object and the purpose of the statute has not been met. Certainly, it means that the Court should determine whether the statute has been followed sufficiently so as to carry out the intent for which the statute was enacted and not a mirror image type of strict compliance. Substantial compliance means “actual compliance in respect to the substance essential to every reasonable objective of the statute” and the Court should determine whether the statute has been followed sufficiently so as to carry out the intent of the statute and accomplish the reasonable objectives for which it was passed.

33. *A fiscal statute generally seeks to preserve the need to comply strictly with regulatory requirements that are important, especially when a party seeks the benefits of an exemption clause that are important. Substantial compliance with an enactment is insisted, where mandatory and directory requirements are lumped together, for in such a case, if mandatory requirements are complied with, it will be proper to say that the enactment has been substantially complied with notwithstanding the non-compliance of directory requirements. In cases where substantial compliance has been found, there has been actual compliance with the statute, albeit procedurally faulty. The doctrine of substantial compliance seeks to preserve the need to comply strictly with the conditions or requirements that are important to invoke a tax or duty exemption and to*



forgive non-compliance for either unimportant and tangential requirements or requirements that are so confusingly or incorrectly written that an earnest effort at compliance should be accepted.

34. The test for determining the applicability of the substantial compliance doctrine has been the subject of a myriad of cases and quite often, the critical question to be examined is whether the requirements relate to the “substance” or “essence” of the statute, if so, strict adherence to those requirements is a precondition to give effect to that doctrine. On the other hand, if the requirements are procedural or directory in that they are not of the “essence” of the thing to be done but are given with a view to the orderly conduct of business, they may be fulfilled by substantial, if not strict compliance. In other words, a mere attempted compliance may not be sufficient, but actual compliance with those factors which are considered as essential.”

25. The Petitioner has not been able to fulfil any of the condition under which it could have exported the rice in its entirety. The ship had not berthed before 20.07.2023. Loading had not started before 20.07.2023. 11,000 MT of rice which is sought to be exported had not entered the customs station for exportation before the issuance of Notification. The Petitioner has not filed any verifiable evidence of date and time of stamping of these 11,000 MT of rice having entered the Customs station prior to 20.07.2023. The Petitioner only has valid shipping bills, vessel call number (VCN) and the customs rotation number. Though the Petitioner states that but for the Notification they would have been able to pay the export duty for the remaining of 11,000 MT of rice and that this circumstance cannot be taken



against Petitioner because the Petitioner has already paid the export duty for 17,000 MT of rice and therefore, nothing prevented the Petitioner to pay the balance of export duty for 11,000 MT of rice as well, before the said notification No.20/2023 came into force, and this argument cannot be accepted because directing the Respondent to relax the condition in this case would amount to forcing the Government to breach its own Notification which this Court cannot do so by way of the present writ petition.

26. The doctrine of substantial compliance and intended use would not come in aid of the Petitioner because the purport of the Notification is to immediately put a ban on the export of Non-basmati rice, and therefore, the argument raised by the Petitioner that the Petitioner has substantially complied with the Notification and it has shipping bills, vessel call number (VCN) and the customs rotation number which shows the intention of the Petitioner to export rice would not come to its aid. The purpose of the Notification was to immediately put ban on the export of Non-basmati rice in order to meet the internal needs of the country in future. In this light, this Court is not inclined to invoke the principle of substantial compliance and intended use in the facts of the present case.

27. A perusal of the Judgment dated 12.10.2022 passed by the High Court of Andhra Pradesh at Amaravathi in **W.P.(C) Nos. 32049/2022, 33016/2022, 33156/2022**, shows that it does not contain any reason as to why the consignment were allowed to be exported. There is no discussion regarding the purpose for which the notification was brought issued. The judgment primarily flows out of the concession given by the Government Advocate. This Court is, therefore, not in a position to follow the judgment passed by the High Court of Andhra Pradesh. With regard to the judgment



dated 27.09.2023, passed by the High Court of Gujarat at Ahmedabad in Special Civil Application No.16017/2023, titled as **M/s Maya Agri Impex Pvt. Ltd. v. Union of India**, the facts of that case and the present case are entirely different. In that case, the ship, instead of reaching Kandla port reached Bhavnagar port. There is nothing on record to show that as to whether the export duty in that case had been fully paid or not and, therefore, the said judgment also cannot be relied upon in the present case.

28. Resultantly, the Writ Petition is dismissed, along with the pending applications, if any.

SUBRAMONIUM PRASAD, J

JANUARY 09, 2024

S. Zakir