HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 13617/2023

Hindustan Unilever Limited

----Petitioner

Versus

Union Of India

----Respondent

For Petitioner(s)	:	Mr. Sanjeev Nair with Ms. Mahi Yadav
For Respondent(s)	:	Mr. Devesh Yadav for Mr. R.D. Rastogi, ASG Mr. Sandeep Pathak Maj. R.P. Singh, AAG with Mr. Jaivardhan Singh Shekhawat

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HON'BLE MR. JUSTICE MANINDRA MOHAN SHRIVASTAVA
HON'BLE MR. JUSTICE PRAVEER BHATNAGAR

Order

06/09/2023

Heard.

Learned counsel for Union on India Shri Devesh Yadav under instructions of learned ASG takes notice on behalf of respondent Nos.1 & 4.

Learned Additional Advocate General Shri R.P. Singh assisted by Mr. Jaivardhan Singh Shekhawat takes notice on behalf of respondent Nos.2 & 3.

The petitioner raises an issue with regard to absence of proper mechanism of matching of credit note of supplier with the ITC reversal by the recipient. It appears that earlier there was a provision under Section 43 of the CGST Act / RGST Act obligating the matching exercises to be undertaken by the department. That provision later on has been omitted.

Learned counsel for the petitioner would submit that it is not practically possible for the petitioner to submit certificate after obtaining the same from the recipient as proof of reversal of credit by the recipient, in order to avail reduction of tax liability. Instead it is for the department to undertake the matching exercise and the claim of reduction in tax liability should not be made dependent upon production of any certificate or proof of reversal of ITC by the recipient.

We find that the validity of the provision is being challenged more on the ground of workability. For the present we find that in the absence of their being any statutory obligation cast on the respondent to undertake matching exercise, if the petitioner is willing to claim reduction in tax liability, proof of reversal by the recipient is to be provided by the supplier. In the present case, the petitioner has challenged the validity of the provision more on the grounds of difficulty in collecting such certificate / proof from the recipient. Even according to the petitioner he has been able to collect such certificate / proof in some cases.

This matter is required to be considered on the next date of hearing.

Though we are not granting any interim order at this stage, learned counsel for Union of India is directed to place before the Court appropriate suggested mechanism.

List the matter on 05.10.2023.

(PRAVEER BHATNAGAR),J (MANINDRA MOHAN SHRIVASTAVA),J

155-SURAJ KUMAR