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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 485/2007

DCM SHRIRSM INDUSTRIES LTD. Petitioner
Through Mr. M. S. Syali, Sr. Adv. with Mr.
Satyen Sethi and Mr. Arta Trana Panda,
Advocates

versus

DY.COMMISSIONER OF INCOME TAX Respondent
Through Mr. N P Sahni and Mr. Ruchesh
Sinha, Advs.

+ W.P.(C) 4188/2007

SVP INDUSTRIES LTD.

..... Petitioner
Through Mr. M. S.
Syali, Sr. Adv. with Mr. Satyen Sethi and Mr.
Arta Trana Panda, Advocates

versus

DY.COMMISSIONER OF INCOME TAX Respondent
Through Mr. N P Sahni and Mr. Ruchesh
Sinha, Advs.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE R.V.EASWAR

ORDER
31.10.2011

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Ld. counsel for the parties state that subject matter of the
petition is covered by the decision of this Court in **Saraya Indus**



Ltd. Vs. UOI [2008] 306 ITR 189 (Delhi). The operative portion of said judgment reads as under :

“5. The opening portion of Section 153A of the Act makes it clear that it applies to a person in respect of whom a search is initiated under Section 132 of the Act, or whose books of accounts, other documents or any assets are requisitioned under Section 132A after 31st May, 2003. Section 153C of the Act is with reference to a person in respect of whom any money, bullion, jewellery or other valuable articles or things or books of account or documents seized or requisitioned belongs. The persons mentioned in Section 153A of the Act are specifically excluded from Section 153C of the Act. The procedure that is sought to be followed in respect of these two categories of persons has been provided for in Sections 153A and 153C of the Act. That the procedure in respect of both of them overlaps or is similar is hardly of any consequence, since both have to be treated in accordance with the principles of natural justice. We are of the opinion that the argument advanced is not adequate for declaring the provisions unconstitutional. There is nothing arbitrary in the procedure adopted. It must also be appreciated that essentially both categories of persons are the same in as much as their books of account, assets, documents etc. are seized or requisitioned, though from different locations. Moreover, the seizure or requisition must be of such a character as to persuade the Assessing Officer to even reopen closed assessments. In this sense, there is no hostile discrimination between the two categories of persons.

6. The second submission made by learned Counsel is that the principles of natural justice appear to be excluded from the provisions of Section 153C of the Act. We do not agree with learned Counsel. It is clearly mentioned in the



substantive portion of Section 153C(1) of the Act that the Assessing Officer shall proceed against a person covered by the section by issuing a notice to him for the purpose of assessing or reassessing his income. The very fact that notice is required to be issued clearly postulates that the principles of natural justice are incorporated in the provision."

2. Present writ petition is disposed of in terms of the order dated 27th February, 2008 passed in **Saraya Industries Ltd.** (supra).
3. Ld. counsel for the petitioner submits that they want to rely upon certain other orders/decisions before the Assessing Officer. It will be open to them to rely upon the orders/decisions. It is an aspect which the Assessing Officer has to examine and consider. We express no opinion.
4. Interim order is vacated.
5. The petitioner will appear before the Assessing Officer on 14 November, 2011 at 11 a.m. when a date of hearing will be fixed.
6. Dasti.


SANJIV KHANNA, J


R.V. EASWAR, J

OCTOBER 31, 2011
vld ✓