

**IN THE INCOME TAX APPELLATE TRIBUNAL  
VISAKHAPATNAM BENCH, VISAKHAPATNAM**

**BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER &  
SHRI D.S. SUNDER SINGH, HON'BLE ACCOUNTANT MEMBER**

**ITA No. 287 & 288/VIZ/2019**

M/s. Sabala Foundation,  
D.No. 27-17-85/22, Canal  
Road, Bhimavaram.

vs. ITO (Exemptions),  
Rajahmundry.

PAN No. AARTS 7098 D  
(Appellant)

(Respondent)

Assessee by : Shri G.V.N. Hari – Advocate.  
Department By : Shri D.K. Sonawal – CIT DR

Date of hearing : 31/10/2019.  
Date of pronouncement : 08/11/2019.

**ORDER**

**PER V. DURGA RAO, JUDICIAL MEMBER**

These appeals by the assessee are directed against the separate orders of Commissioner of Income Tax (Exemptions), Hyderabad, both dated 27/03/2019.

**2.** Facts of the case, in brief, are that assessee-foundation filed an application in Form No. 10A for seeking registration u/sec. 12A and also filed Form No. 10G for approval u/sec. 80G of the I.T. Act, 1961 on 27/09/2018. The Id.CIT(E) after considering the explanation and other details given by the assessee rejected the

registration u/sec. 12AA on the ground that the assessee has claimed the income exempt without having 12A registration, therefore assessee-foundation is not genuine.

**3.** Against the order of the Id.CIT(E), the assessee is in appeal before this Tribunal.

**4.** We have heard both the sides and perused the material available on record. We find that in this case, Id.CIT(E) without examining the objects of the assessee simply rejected 12A registration. When the assessee applied for registration u/sec. 12A, the Id.CIT(E) has to examine the objects of the assessee and if at all he is having any doubt about the genuineness of the activities carried by the assessee-society, it is open to the Id.CIT(E) to depute the Inspector of Income Tax or any other person to examine the premises and make necessary enquiries and after receiving the enquiry report, the Id.CIT(E) has to exercise his discretion based on the material available on record whether to grant or not to grant registration. In this case, Id.CIT(E) rejected 12A registration on the ground that assessee claimed exemption u/sec.12A without having 12A registration. In our opinion, the order passed by the Id.CIT(E) is not correct, therefore we set aside the order passed by the Id.CIT(A) and direct him to examine the entire case of the assessee with

reference to the objects and decide *denovo* after making necessary enquiries as indicated above. Thus, this appeal filed by the assessee is allowed for statistical purpose.

**5.** So far as ITA No. 288/VIZ/2019 is concerned, it is relating to grant of approval u/sec. 80G of the Act. Grant of approval u/sec. 80G has to be granted subsequent to grant of registration u/sec. 12A of the Act. Therefore, we direct the Id.CIT(E) to consider the approval of 80G after considering assessee's case for registration u/sec. 12A of the Act. In view of the above, on this count also Id.CIT(E)'s order is set aside and direct him to pass the orders in accordance with law after considering 12A registration.

**6.** In the result, both the appeals filed by the assessee are allowed for statistical purposes.

Order Pronounced in open Court on this 08<sup>th</sup> day of Oct., 2019.

Sd/-  
**(D.S. SUNDER SINGH)**  
**Accountant Member**

sd/-  
**(V. DURGA RAO)**  
**Judicial Member**

**Dated: 08<sup>th</sup> October, 2019.**

**vr/-**

*Copy to:*

1. *The Assessee- M/s. Sabala Foundation, D.No. 27-17-85/22, Canal Road, Bhimavaram*
2. *The Revenue -ITO (Exemptions), Rajahmundry*
3. *The CIT(E), Hyderabad.*
4. *The D.R., Visakhapatnam.*
5. *Guard file.*

By order

(VUKKEM RAMBABU)  
Sr. Private Secretary,  
ITAT, Visakhapatnam.