आयकरअपीलीय अधिकरण, जयपुरन्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES,"B" JAIPUR

डॉ. एस.सीतालक्ष्मी, न्यायिक सदस्य एवं श्री राठोड कमलेश जयन्तभाई, लेखा सदस्य के समक्ष
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकरअपील सं./ITA. No. 315/JP/2020
निर्धारणवर्ष/Assessment Years : 2020-21

Radheyshyam Mandir Trust Bhawani Mandi, Radheyshyam Mandir Gali, Jhalawar- 326502.	बनाम Vs.	CIT(Exemption) Jaipur.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AAATR4804 R		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Mahendra Gargieya (C.A.)
राजस्व की ओर से/Revenue by : Shri Sanjay Dhariwal(CIT)

सुनवाई की तारीख/Date of Hearing : 17/08/2022
उदघोषणा की तारीख/Date of Pronouncement : 26/09/2022

आदेश/ORDER

PER: DR. S. SEETHALAKSHMI, J.M.

This is an appeal filed by the assessee directed against the order of the learned Commissioner of Income Tax (Exemption) [hereinafter referred to as Ld. 'CIT(E)'], Jaipur dated 25.09.2020 for the Assessment year 2020-21.

2. At the outset of hearing, the Bench observed that there is delay of 15 days in filing the appeal by the assessee for which the ld. AR of the assessee filed an application dated 01.01.2021 for condonation of delay with following prayers.

"The humble assessee most respectfully begs to submit as under:

1.That in the aforesaid matter, the ld. CIT(A), Kota passed the impugned order on dated 25.09.2020, which was received on dated 25.09.2020 by

the AR of the assessee. Accordingly, the appeal was to be filed on/before 24.11.2020 however, the same has been filed on dated 09.12.2020. Thus, delay of 15 days has occurred.

2. In this connection, it is humbly submitted that the due to wide spread of pandemic COVID-19, there was a delay in signing and submission of appeal before the Hon'ble ITAT. The trustee being old aged person restricted their movement to safeguard themselves. This has contributed minor delay of 15 days in filing of the appeal.

3. That in support of the aforesaid facts, affidavit of the of assessee is enclosed with this application and marked as "Annexure - A".

4. That the applicant is a layman not very conversant with the complex tax laws and because of the circumstances stated above, the delay so caused was beyond her control but was bonafide and unintended. The assessee was not going to gain any benefit because of the delayed finding and her conduct was not contumacious.

Supporting Case Laws:

5.1 It is submitted that the Hon'ble Supreme Court in the case of Collector, Land & Acquisition v. Mst. Katiji& Others (1987) 167 ITR 471 (SC) has advocated for a very liberal approach while considering a case for condonation of delay. The following observations of the Hon'ble Court are notable:

> *"The legislature has conferred the power to condone delay by enacting section 5 of the Limitation Act, 1963 in order to enable the Courts to do substantial justice to parties by disposing of matters on 'merits'. The expression sufficient cause' employed by the legislature is adequately elastic to enable the Courts to apply the law in a meaningful manner which sub serves the ends of justice-that being the life-purpose of the existence of the institution of Courts. It is common knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court. But, the message does not appear to have percolated down to all the other Courts in the hierarchy."*

Prayer: It is, therefore, humbly prayed that this application may kindly be allowed by condoning the delay, taking a sympathetic view, in the interest of justice.

Any other order, which this Hon'ble ITAT deems fit and proper, be also passed in favour of applicant assessee."

3. During the course of hearing, the ld. DR has no objection to assessee application for condonation of delay and prayed that court may decide the issue as deem fit and proper in the case.

4. We have heard the rival contentions and perused the materials available on record. The prayer as mentioned above by the assessee for condonation of delay of 15 days has merit and we concur with the submission of the assessee. Thus the delay of 15 days in filing the appeal by the assessee is condoned.

5. The assessee raised the following ground of appeal:-

"1. The ld. CIT(E), Jaipur erred in law as well as on the facts of the case in denying registration sought u/s 12AA(1)(a) of the Act. Such denial being contrary to the law provisions of law and facts, the registration as prayed, kindly be granted.
2.The ld. CIT(E), Jaipur further erred in law as well as on the facts of the case in denying registration sought u/s 12AA(1)(a) of the Act on the ground that the appellant failed to submit original documents establishing the appellant documents establishing the appellant trust, being contrary to the prevalent law and the rules made thereunder and on the further allegations that appellant was not actually carrying out the activities as also the appellant did not file bank statement, income and expenditure account and balance sheet for last three years, which are completed contrary to provisions of law and facts available on record. The findings so recorded by the ld. CIT(E) is highly perverse hence the impugned order deserves to be quashed. The ld. CIT(E) Jaipur may kindly be directed to grant registration as prayed for.
3. The appellant prays your honours indulgences to add, amend or later of or any of the grounds of the appeal on or before the date of hearing."

6. On perusal of the order passed by the ld. CIT(E), it is observed that the ld CIT(E) has stated in his order that sufficient opportunities has been provided to the assessee to produce relevant information/documentation in support of its claim seeking registration U/s 12AA(1)(a) of the Act. However the assessee has failed to avail of such opportunity, accordingly, the application seeking registration was rejected by ld. CIT(E).The ld. CIT(E) and the findings are reproduced as under:-

> *"3. In the light of the above section of the Act and Rules, the Commissioner of income-tax has been empowered to call for such documents or information from the trust or institution as he thinks necessary in order to satisfy himself about the genuineness of activities of the trust or institution and may also make such inquiries as he may deem necessary in this behalf. Under such powers vested in CIT (E), the applicant was asked to file details vide letter issued on different dates as mentioned above.*
>
> *4. As discussed above, the applicant did not submit original documents regarding establishment of the trust/society as well as evidences in support of his claim. Under Rule 17A of Income Tax Rules, 1962 the applicant is required to produce original document regarding establishing of the trust/society for verification but the same has not be done by the applicant. Moreover, the applicant also not furnished any evidence/document of society/trust carrying out its activity from the premise mentioned by it in form 104, Further, no details in respect of Bank A/c statements for last three years (as applicable) have been furnished as well as the I/E A/c Balance sheet of last three years (as applicable.)*

5. To decide the matter of seeking registration u/s 12AA, the genuineness of the activities being under taken by the applicant are also to be examined. The applicant has not submitted any such details and other information as mentioned above. Therefore, it is not known that the applicant is actually carrying out the activities as per its objects and at the premises mentioned by it in Form 10A. Thus, the charitable nature and genuineness of the activities of the applicant could not be established.

6. Sufficient opportunity has been provided to the applicant to produce details and documents in support of his claim for registration 12AA of the Income Tax Act, 1961 but applicant have failed to do so. In the light of the above facts, the application seeking registration u/s 12AA is hereby rejected and filed.

7. Aggrieved by the CIT(E) order, the assessee is in appeal before us . The Ld AR for assessee submitted a detailed Written submissions which was received by the office registry on 09.09.2021 which are as under:-

Brief Facts: The appellant (hereinafter also referred to as "trust/ Society") is a charitable society, established long back and engaged in promoting nationality, education, personality development of the students without any discrimination of caste, creed and sex. Kindly refer amended objects (PB 77-85).

The fact as noted by the ld. CIT (E) are that the appellant filed an online application on 06-02-2020 in Form No. 10A for seeking registration u/s 12AA of the Income Tax Act, 1961. The appellant-society was issued a letter/notice No. ITBA/EXM/F/41/2020-21/ 1027492592(1) dated 14.07.2020 requesting to submit certain documents/ explanations and also to produce original RC/MOA for verification. Due to some personal reason appellant-society was unable to comply with the aforesaid requirement. Therefore, again

appellant was issued a letter/notice No. ITBA/EXM/ S/91/2020-21/ 1027752449(1) dated 15`J8.2020. In compliance thereto, Shri Devang Gargeiya, AR and Smt. Manisha Bindal AR attended and furnished details on 28.08.2020. The appellant society through its A/R was requested to furnish audited Balance Sheet & I/E A/c for F.Y. 2018-19 & Financial Year 2019-20, premises temple photographs, clarification on rent receipt, Certified copies of trust deed from devstanvibhag for verification. He further observed and alleged and further observed that:

As discussed above the applicant did not submit original documents regarding establishment of the trust/society as well as evidences in support of 17A of Income Tax Rules, 1982 the applicant is required to produce o document regarding establishing of the trust/ society for verification but the same has not be done by the applicant Moreover, the applicant also not furnished any evidence/ document of society/ trust carrying out its activity from the premise men tined by in 10A. Further, no details in respect of Bank Alc statements for last three years (as applicable) have been furnished as well as the I/E A/c & Balance sheet of last three years (as applicable).

5. To decide the matter of seeking registrations 12AA the genuineness of the activities being under taken by the applicant are also to be examined. The applicant has not submitted any such details and other information mentioned above Therefore, it is not known that the applicant is actually carrying out the activities as per its objects and at the premises mentioned by it in form 10A. Thus the charitable nature and genuineness of the activities of the applicant could not be established.

6. Sufficient opportunity has been provided to the applicant to produce details and documents in support of his claim for registration us 12AA of the Income Tax Act, 1961 but applicant have failed to do so. In the light of the above facts the application seeking registration us 12AA is hereby rejected and failed.

Thus, the crux of the order of ld. CIT(E) is that as per Rule 17 A r/w S.12AA(1)(b) of the Act original instrument establishing the trust and other evidences were not filed in original. The CIT is empowered to call for such document/ information to satisfy himself of the genuineness of the activities or to make necessary enquires. U/s 17A appellant is required to produce original/ certified instrument establishing the institution for verification and alleging failure to comply this part, he denied the registration. Hence this appeal.

SUBMISSIONS:

1. Misreading of the Provisions/ Rules:- No Valid basis:

At the outset, it is evidently clear that the Ld. CIT (E) has referred to the pre-amended Rules 17A which stood prior to the newly suLAituted Rule 17A by the Income Tax (First Amendment) Rules, 2018 made effective from 19.02.2018. The pre-amended Rule read as under

Rule 17A substituted by the Income-tax (First Amendment) Rules, 2018, w.e.f. 19-22018. Prior to its substitution, said Rule, as inserted by the Income-tax (Second Amendment) Rules, 1973, w.e.f. 1-4-1973 and as amended by the Income-tax (Fifth Amendment) Rules, 1989, w.e.f 1-4-1988 and the Income-tax (Seventh Amendment) Rules, 2007, w.e.f. 1-6-2007, read as under:

"17A. Application for registration of charitable or religious trusts, etc.— An application under clause (aa) of sub-section (1) of section 12A for registration of a charitable or religious trust or institution shall be made in duplicate in Form No. 10A and shall be accompanied by the following documents, namely: —

where the trust is created, or the institution is established, under an

(a)

instrument, the instrument in original, together with one copy thereof and where the trust is created, or the institution is established, otherwise than under in instrument, the document evidencing the

creation of the trust or the establishment of the institution, together with one copy thereof.

Provided that if the instrument or document in original cannot conveniently be produced, it shall be open to the Commissioner to accept a certified copy in lieu of the original.

(b) xxxxxxxxxxxxxxx

However, the amended Rules, which are relevant for the present purpose, reads as under:

"[Application for registration of charitable or religious trusts, etc.

17A (1). An application under clause (aa) or clause (ab) of sub-section (1) of section 12A for registration of a charitable or religious trust or institution shall be made in Form No. 10A and accompanied by the following documents, namely: —

(a) *where the trust is created, or the institution is established, under an instrument, self-certified copy of the instrument creating the trust or establishing the institution;*

(b) *where the trust is created, or the institution is established, otherwise than under an instrument, self-certified copy of the document evidencing the creation of the trust, or establishment of the institution;*

(c) *self-certified copy of registration with Registrar of Companies or Registrar of Firms and Societies or Registrar of Public Trusts, as the case may be;*

(d) *self-certified copy of the documents evidencing adoption or modification of the objects, if any;*

X X X X"

In the present case, since the application seeking registration was filed on 06.02.2020, hence, the amended Rule 17A was applicable. A bare perusal of the amended rule nowhere requires the appellant to furnish an original copy. On the Contrary, self-attested/ self-certified copy of each and every document/ instrument will be sufficient for seeking registration. Therefore, insistence of the ld. CIT is beyond

understanding, contrary to the specific provisions of rules and law, hence, without jurisdiction. The impugned order deserves to the dismissed at this stage itself.

2. It is further submitted that self attested copies of the main objects and amended objects were submitted alongwith the application itself. Moreover Certified Copies of both the documents obtained from DevstanVibhag, Rajasthan were also duly produced before the CIT(E) as soon as it was received on 22.09.2020 However, the same have been completely ignored and therefore the allegation levelled by the ld. CIT(E) on this aspect is factually wrong. Even assuming copies certified from Devstanvibhag were not filed then too, this being not a condition precedent, could not dissented the trust from registration as stated above.

3.1 All other conditions fulfilled: Pertinently, the ld. CIT(E) raised voluminous queries and all of them were duly replied time to time, filing explanation and all the required details were submitted vide letter dated 28.0820 (PB 1-2), as admitted by the ld. CIT(E) himself on page 1 of the impugned order the Id. CIT has allegedly made a bald allegation that various documents were not filed however, the same is factually incorrect in as much as, the assessee, during the course of the proceedings, submitted various documents vide submissions dated 28.08.2020 (PB1-2);

S.No.	*Particulars*
1.	*Submission dated 28.08.2020 containing description of documents attached and required information along with Original PAN card.*
2.	*A declaration on the letterhead of trust U/S 13(1)(C).*
3.	*NOC from the owner of premises.*
4.	*Certified Copy of annual accounts of last three years.*
5.	*Certified Copy of Trust Deed/ Memorandum of association.*
6.	*Copy of identity card of main trustees, president, treasurer and secretary of the trust.*
7.	*Certified copy of note on activities conducted during last years.*
8.	*Details of Donation made for the period 01/04/2018 to 31/03/2019.*

9.	*Details of Donation received during last three years.*
10.	*Statements of Bank accounts i.e. Bank of Baroda and ICICI Bank for three years.*
11.	*An undertaking u/s 2(15) and providing details of category of charitable purpose.*
12.	*Amended trust deed after merging the required clauses.*
13.	*Copy of PAN card of trust.* .
14.	*Copy of last three years ITR along with computation and audit report u/s 10B.*
15.	*Power of attorney duly signed in favor of A/R.*
16.	*Details of charitable or religious activities for preceding three years along with pictures.*

Charitable activities carried out: In the light of the voluminous evidences as submitted and stated herein above (copies included in the Paperbook also), it is fully established that the appellant carried out charitable activities in accordance with the main and amended object of the trust deed. The ld. CIT(E) .wen though referred to the above mentioned letter of 28.08.2020 yet the same was not considered. No specific instance has been pointed by the ld.CIT(E) but it appears in mere pretense on the part of the Id. CIT(E) to reject the application by incorrectly alleging that various documents/information were not filed. The photographs of the activities, the note on charitable activities together with income and expenditure account and other evidence fully established that the appellant was genuinely carrying out charitable activities.

Since all the relevant documents are already available on record, the appellant deserves registration u/s 12AA and it is humbly prayed that the Hon'ble Tribunal may kindly direct the CIT(E) to grant registration instead of giving the appellant another round the fault/wrong committed by the other party i.e. the Id. CIT(E),In the interest of justice, registration may kindly be granted at this stage itself.

4. Supporting case laws: The following case laws directly support the contention of the Assessee:

4.1 CIT (E) Vs. M/s Arihanth Charitable Trust, Pali DBIT A No. 279/ 2017 vide order dated 14.11.2017 (DPB 1-3), by the Hon'ble Rajasthan High Court following the decision of Hon'ble Delhi High Court in the case of CIT(E) vs. TsurphuLabrang in ITA 484/2016 vide order dated 01.08.2016, affirming the decision of ITAT holding as under:

"5. It was sought to be urged before the ITAT by the Revenue that there is a specific requirement of filing documents for creation of a Trust along with an application for grant of exemption. In the impugned order, the ITAT referred to Rule 17A (a) of the Income Tax Rules, 1962 which itself envisages the possibility of the Trust being created "otherwise than under an instrument" in which event it is sufficient if "the document evidencing the creation of the trust or the establishment of the institution, together with one copy thereof' is provided. The proviso to Rut,;. 17A(a) permits the Commissioner to accept even a certified copy in lieu of the original if the instrument or document in original cannot conveniently be produced. It was rightly pointed out by the ITAT that it is therefore not essential that there must be an instrument evidencing the creation of a Trust.

6. The fact of the matter was that the Assesse.e claimed that it is an institution/ trust created in the year I 159AD and no formal deed of trust was executed at that time. The 17th Karmapa, who is the supreme spiritual Head of Karma Kagyu Lineage, made a declaration of Trust on stamp paper on 29th day of March, 2011 at Delhi setting out the entire history of the Trust along with aims, objects and purposes. Various provisions with regard to the management of the Trust and its properties and the maintenance of accounts etc. were also set out. It was stated that the objects of the trust were wholly charitable and religious in nature. The I7 AT has in its impugned order set out in some detail the contents of the said affidavit regarding the creation of the Trust in Central Tibet in 1159 AD and its objectives and activities over the years. The Court concurs with the ITAT that a formal deed of trust was not necessary for the grant of registration under Section 12A/12AA of the Act.

7. On the question whether the objects and purposes of the Trust were charitable thereby qualifying for registration, the ITAT has set out in its impugned order in detail, the objects of the Trust as declared in the affidavit filed by the 17th Karmapa. It concluded from reading of the various aims and objects that they were charitable in nature. It has been rightly pointed out by the ITAT that it is not necessary that present aims and objects of the Trust should be the same at the time of its establishment. As further rightly pointed out, the stage for examining if the income of the Trust was being applied for its objects would arise only when a return of income is filed by the Trust. The said issue would not affect the grant of registration.

8. The 1TAT also examined whether the fact that the Trust was for the benefit of a particular community would debar it from exemption and registration under Section 12AA/ 12A of the Act. The said question was, and in the view of this Court rightly, answered in the negative. In particular, the Court concurs with the conclusion of the 1TAT that "It is now well-settled that an objects beneficial to a section of the public is an objects of general utility. The intention of the institution/ trust should be impersonal in nature and for a sufficiently defined and identifiable section of the public."

4.2 B.S. Public Education Society Vs. CIT (2014) 19 NYPTTJ 3708 (Del) (DPB 510) wherein it was held: "The income and expenditure account and the balance sheet of the financial year 2010-11 were also furnished. The learned Commissioner in order to verify the claim of the assessee and also the activities of the assessee entertained the submissions of the assessee. The learned Commissioner denied registration to the assessee on the ground that as per r.17A(a) of the Income-tax Rules, 1962 the assessee was to submit the original instrument of its establishmellt together with the copy thereof and since the assessee has submitted only the photo copy/ certified copy of the instrument therefore the application was not complete and thus the application itself is not worth consideration for registration under s. 12AA of the Act. We find that the learned Commissioner has gone into too much technicalities more specifically when certified copy of the original

instrument was duly filed by the assessee. If this was the sole criteria, then nothing prevented the learned Commissioner to direct the assessee to file the original instrument. The second ground on which the assessee was denied registration, was that the assessee is not doing charitable activity. On perusal of record and after hearing the rival submissions we are satisfied that the assessee is running a senior Secondary school, duly registered with CBSE and Board of School Education, Haryana. We have specifically perused the objects of the society, wherein the predominant object is imparting education. Therefore, we are not satisfied with the observation of the learned Commissioner that the assessee society is not doing any charitable activity."

4.3 PR CIT (E) Vs. Dawoodi Bohra Masjid (2018 402 ITR 29/ 301 CTR 268 (Guj) (DPB 11-14) wherein it was held that "From the materials on record, it can be seen that the Tribunal had gone through the registration details of the assessee trust contained in the order of Wakf Board and was satisfied that full details of the functions of the trust were available which would establish the existence of the trust, its registration by the Gujarat State Wakf Board which also contained details of objects of the trust, manner of appointment of Mutawalli, etc. Clause (a) of r. 17A requires that the application of registration under s. 12A of a charitable or religious trust or institution would be accompanied by the following documents namely, where the trust is created or the institution is established, under an instrument, the instrument in original and where the trust is created or the institution is established, otherwise than under an instrument, the document evidencing the creation of the trust or the establishment of the institution. Thus, 17A nowhere envisages the existence of a trust deed or its registration. The factum of existence of trust can also be established by producing documents evidencing the creation of the trust. This is precisely what has been done in the present case. The order passed by Wakf Board dt. 20th Nov., 1999 recognises various Daudi Vora trusts and in case of present assessee also enlisted the objects of the trust, who would be the managers of the trust and how such managers would be appointed or removed. Tribunal was therefore justified in directing

registration of trust under s. 12A- Laxminarayan Maharaj &Anr. Vs. CIT (1983) 37 CTR (MP) 240: (1984) 150 ITR 465 (MP) relied on " (Paras 6 & 7)

4.4 CIT (E) vs. Shri Mahavir Jain Society (Regd.) (2018 402 ITR 301/ 302 CTR 497) (PH) (DPB 15-21) wherein it was held that "The CIT refused to grant registration to the assessee-society, inter alia, on the ground of non-production of documentary evidence in respect of aims and objects of the society, absence of audited financial statements and non-explanation regarding registration of the society twice with the Registrar of Firms and Societies. It has been categorically recorded by the Tribunal that one of the objects of the society as mentioned in its bye-laws was to provide free medical aid by opening hospitals, diagnostic centres, maternity home and by organizing special medical camps. These activities had also been demonstrated in the previous three years by the assessee in its balance sheet income and expenditure account, receipt and payment account which were produced before the CI7'. Further, the CIT had not commented adversely on the documents placed before it. With regard to the reason that the assessee had not furnished audited financial statements, it has been recorded by the Tribunal that the same were not relevant for establishing the fact whether the activities of the trust were genuine or not. Even the provisions of the Act do not require audited financial statements to be furnished while seeking registration under s. 12AA. As regards the plea that the assessee had offered no explanation about the registration of the society twice, it was recorded by the Tribunal that registration of a society was not a precondition for granting registration under s. 12AA. Thus, it was rightly concluded by the Tribunal that the CIT was not justified in rejecting the application for registration of the assessee-society by insisting on the conditions not contemplated by the statute. Counsel for the Revenue has not been able to show that the view taken by the Tribunal is erroneous. He has also not been able to produce any material on record to show that the approach adopted y the Tribunal is legally unsustainable. Thus, no substantial question of law arises." (Paras 6 & 7)

5. Lastly, Submissions made before the CIT(E) are also relied upon.

6. Covered issue: The aspect relating to the applicability of the amended rule was considered by the Hon'ble ITAT in the case of Arya Samaj Mandir Vs. CIT(E), Jaipur and decided in favour of the assessee in the ITA Nos.1081 & 1082/JP/2019 vide order dated 03.09.2020 holding in para 2.7 and onwards, is as under:

"2.7 We have analyzed the preamended rules as well as amended rules 17A of the Income Tax Rules which came into effect from 19-02-2018. In the present case, the application for seeking registration u/ s 12AA of the Act was filed by the assessee society/ trust on 12-01-2019. Therefore, in such circumstances, the amended rule 17A was applicable and on bare perusal of the amended rule, it is nowhere required by the assessee to furnish the original documents. On the Contrary self-attested as well as self certified copy of each and every documents/instruments were sufficient for seeking registration. Therefore, under these circumstances, the insistence by the Id. C1T(Exemption) for asking original documents of the instruments is beyond understanding and contrary to the specific provisions of law and rules.

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In view of the above discussions, we are of the considered view that as per amended rule 17A of the Income Tax Rules, which are applicable in the case of the assessee, the assessee was not required to furnish the original copy of the documents rather self attested or self certified copy of each and every documents/ instruments was sufficient for the purpose of verification by the Id. CIT (E)."

Thus, there remaining to valid ground behind denying the registration, the Ld. CIT(E) be directed to grant registration u/s 12AA of the Act."

8. Per contra, the ld. DR has relied on the orders of the lower authorities.The ld. DR submitted that during the course of proceedings, the ld. CIT(E) has observed in his order that part reply submitted by the trust on

28.08.2020 and the balance documents which were to be submitted on 11.09.2020 and final opportunity was given by the ld. CIT(E) and after having been given sufficient time and opportunity and submitted that the matter should be restored back to the file of the ld. CIT(E) and the appeal of the assessee should be dismissed.

9. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. The grounds No. 1 and 2 inter connected. We observed that the assessee is a charitable society, established long back and engaged in promoting nationality, education, and personality development of the students without any discrimination of caste, creed and sex. The ld. AR for the assessee submitted that the assessee has filed an online application on 06.02.2020 in Form No. 10A for seeking registration u/s 12AA of the I. T. Act, 1961. Further, the assessee- society was issued noticed dated 14.07.2020 requesting to submit certain documents and to produce original RC/MOA for verification. The ld. CIT(E) has supposed in its order that as per Rule 17A r.w.s 12AA(1)(b) of the Act original instrument establishing the trust and other evidences were not filed in original. Further, the ld. CIT(E) empowered to call for such document and information to satisfy himself of the genuineness of the activities or to make necessary enquiries. Further, the ld. AR for the assessee submitted that Under Rule 17A there is no necessity to produce the original and self certified copy of the instrument and establishing the institution for verification. The ld. AR for the assessee submitted that pre-amended Rules 17A which stood prior to the newly substituted Rule 17A by the Income Tax Rules, 2018 w.e.f. 19.04.2018. The application seeking for registration was filed on 06.02.2020 hence, the amended Rules 17A was applicable for the application for registration of charitable trust, the trust is created under instrument, self certified copy of the

document evidencing the creation of the trust is essential as per Rules 17A self attested/ self certified copy of each and every documents/instrument will be sufficient for seeking registration. But the ld. CIT(E) has erred in understanding, contrary to the specific provisions of Rules and law which are relevant for the present case. The ld. AR for the assessee submitted that all the self certified copy which are sufficient for the registration are submitted . Further, the ld. AR for the assessee submitted that self attested copies of the main objects and amended objects were submitted along with application which are certified copies of both documents obtained from Devstan Vibhag, Rajasthan were also duly produced before the ld. CIT(E) as soon as it was received on 22.09.2020 but the ld. CIT(E) has completely ignored the submission made by the assessee where all the conditions were fulfilled whenever the ld. CIT(E) has raised voluminous queries and all of them were duly replied time to time. Before the ld. CIT(E), the ld. AR for the assessee has filed a paper book containing at 300 pages on 28.08.2020 the same has been produced before us, the order passed by the ld. CIT(E) is unjustifiable. The ld. AR for the assessee has submitted that all documents relevant for the registration U/s 12AA of the Act where the assessee has produced certified copies which were permissible as evidence in support of his claim going through the explanation of Rule 17A of Income Tax Rules, 1962 clearly explained that self certified copies of documents are sufficient for the claiming exemption under section 12AA of the Act. Further, we observed that the ld. CIT(E) has erroneously passed the order without considering that the assessee has submitted all the necessary documents which were raised in the form of queries. During the course of proceeding the documents which were submitted on 28.08.2020 has been annexed in paper book from page 1 and 2 which are reproduced as under:-

S. No.	*Particulars*	*Pg. No.*
1.	*A reference letter containing description of documents*	*1-5*

	attached and required information along with original PAN	
2.	*A declaration on the letter head of trust U/s 13(1)(C)*	*6*
3.	*NOC from the other of premises*	*7*
4.	*Certified copy of Annual account of last three years.*	*8-24*
5.	*Certified copy of Trust deed/memorandum of association*	*25-34*
6.	*Copy of identity card of main trustees, president treasurer and secretary of the trust*	*35-39*
7.	*Certified copy of note on activities conducted during last years*	*40*
8.	*Details of donation made for the period 01/04/2018 to 31/03/2019*	*41*
9.	*Details of donation received during last three years*	*42-47*
10.	*Statements of Bank accounts i.e. Bank of Baroda and ICICI Bank for three years*	*48-81*
11.	*An undertaking u/s 2(15) and providing details of category of charitable purpose*	*82-83*
12.	*Amended trust deed after merging the required clauses*	*84-89*
13.	*Copy of PAN card of trust*	*90*
14.	*Copy of last three years ITR along with computation and audit report u/s 10B*	*91-264*
15.	*Power of attorney duly signed of favour of A/R*	*265*
16.	*Details of charitable or religious activities for preceding three years along with pictures*	*266-300*

Thirdly we observed that the ld. CIT(E) is factually incorrect and unjustifiable where the ld. CIT(E) has failed to observe that the activities carried out by the trust is genuine in nature. We observed that the assessee carried out a charitable activities in accordance with law with main objects and amended objects of the trust deed . A letter which was sent by the assessee on 28.08.2020 which was not considered by the CIT(E). Taking into consideration the present facts of the case and all the relevant documents which are also available on record it was produced before the ld. CIT(E) and before us also, the assessee deserves registration u/s 12AA. The ld. AR for the assessee submitted that additional written submissions along with affidavit submitted the audited balance sheet, income and expenditure accounts for A.Ys. 2017-18, 2018-19 and 2019-20,

temple photographs, certified copy of trust deed before the ld. CIT(E) along with application form 10A and thereafter also with letters submitted through the ld. AR during the course of hearing. The ld. AR for the assessee has relied on the following orders which reads as under:-

- CIT(E) vs. M/s Arihanth Charitable Trust, Pali in DBIT A No. 279/2017 dated 14.11.2017.
- B.S. Public Education Society vs. CIT (2014) 19 NYPTTJ 3708 (Del.)
- PR CIT(E) vs. Dawoodi Bohra Masjid (2018) 402 ITR 29 (Guj.).
- CIT(E) vs. Shri Mahavir Jain Society (2018) 402 ITR 301.
- ARya Samaj Mandir vs. CIT(E) in ITA No. 1081 & 1082/JP/2019 dated 03.09.2020 (Jaipur Trib.)

We are of the considered view that as per amended Rule 17A of the Income Tax Rules which are applicable in the case of the assessee, the assessee was not required to fulfil any original copy of the documents rather self certified copy/instrument was sufficient for the purpose of verification by the ld. CIT(E), therefore, ground No. 1 and 2 of the assessee is allowed.

In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on 26/09/2022.

Sd/-	Sd/-
(राठोडकमलेशजयन्तभाई)	(एस.सीतालक्ष्मी)
(RATHOD KAMLESH JAYANTBHAI)	(Dr.S. Seethalakshmi)
लेखा सदस्य / Accountant Member	न्यायिकसदस्य / Judicial Member

जयपुर / Jaipur
दिनांक / Dated:- 26/09/2022.
*Santosh
आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:
1. अपीलार्थी / The Appellant-Radheyshyam Mandir Trust, Jhalawar.
2. प्रत्यर्थी / The Respondent- CIT(E), Jaipur.
3. आयकरआयुक्त / CIT

4. आयकरआयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्डफाईल / Guard File {ITA No. 315/JP/2020}

आदेशानुसार / By order

सहायकपंजीकार / Asst. Registrar