IN THE INCOME TAX APPELLATE TRIBUNAL
BENCH 'B' CHENNAI

Before Shri Abraham P. George, Accountant Member and
Shri George Mathan, Judicial Member

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I.T.A. Nos. 1344 & 1345/Mds/2010
Assessment Years : 2005-06 & 2006-07

M/s. Mazdoor Welfare Trust, No.9, III Main Road, Mugappair West Garden, Chennai-600 037. (PAN: AAATM0632Q)	v.	The Tax Recovery Officer, Thanjavur.
(Appellant)		(Respondent)

Appellant by : Shri G. Baskar
Respondent by : Shri P.B. Sekaran

O R D E R

PER BENCH:

These are two appeals filed by the assessee against the orders of the learned CIT(Appeals), Tiruchirapalli in ITA No. 337 & 338/08-09 dated 23-07-2009 for the assessment years 2006-07 and 2005-06 respectively.

2. Shri G. Baskar, Advocate represented on behalf of the assessee and Shri P.B. Sekaran, ld. CIT-DR represented on behalf of the Revenue.

3. At the time of hearing it was submitted by the learned authorised representative that the assessee is a charitable Trust which is running an educational institution in the name of Anjalai Ammal Mahalingam Engineering College at Koilvenni, Tiruvarur Dist. and that the assessee Trust was registered under Section 12A of the Income-tax Act, 1961. It was the submission that due to various problems in the administration of the Trust on account of the death of the son of the managing trustee as also on account of the indiscipline among the Board of Trustees and the Correspondent of the college, the Southern Railway Mazdoor Union represented by its General Secretary along with two others filed writ petition before the Hon'ble High Court of Madras in Original Application Nos. 83, 206, 211, 29, 425 of 2005 and 153 tgo 155 of 2004 which came to be disposed of by an order dated 24.5.2005 by the Hon'ble High Court wherein Hon'ble Justice A. Ramamurthi, retired Judge of the Hon'ble High Court had been appointed as the Administrator of the said Trust. It was the submission that Hon'ble Mr. Justice A. Ramamurthi took charge of the Trust on 9th May, 2005. After taking over the administration, the Trust had been attempting to get back the account books, records and vouchers etc. from the earlier Chairperson Smt. N. V. Devi. It was the submission that on account of the non-availability of the books and accounts, the Assessing Officer had completed *ex parte* assessments in respect of the assessment year 2005-06 by estimating the income of the assessee and for the assessment year 2006-07 by estimating the income for two

months being the period of 10.4.2005 to 28.05.2005. It was the submission that the books of accounts are still not available but however the assessee would attempt to reconcile the issues and prepare its books on the basis of the bank statement as available. It was the submission that the assessee may be granted one more opportunity to represent its case before the Assessing Officer.

4. In reply, the learned DR submitted that if the assessee is able to substantiate its income & expenditure statement with its audited books even on the basis of the bank account and other statements as available, the assessee could be given an opportunity to prove its case.

5. We have considered the rival submissions. As the assessee has now admitted that it would be in a position to prepare its books of accounts on the basis of the bank accounts as are available and other books and vouchers as are available with it, we are of the view that the assessee should be granted one more opportunity to represent its case before the Assessing Officer in the interest of justice and we do so. The assessee shall prepare its books of accounts on the basis of the bank accounts and other records as are available with it and the same shall be produced before the Assessing Officer along with the audited report as prescribed under the Act. The Assessing Officer shall examine the issues in the appeal afresh on the basis of the evidences produced and re-do the assessments after calling for such details as are required by him for the purpose of completing the assessments. In the circumstances, the

appeals of the assessee are allowed for statistical purposes.

6. The order was pronounced in the court on 9-9-2010.

Sd/-	Sd/-
(Abraham P. George)	(George Mathan)
Accountant Member	**Judicial Member**

Chennai,
Dated the 9th September, 2010.

H.

Copy to: Assessee/AO/CIT (A)/CIT/D.R./Guard file