

Order dated 23.12.2020
in C.M.P.No.8755 of 2020
in W.A.S.R.No.51871 of 2020

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in
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R.SUBBIAH, J
and
C.SARAVANAN, J

(The Order of the Court was made by R.Subbiah, J)

This petition has been filed to condone the delay of 169 days in filing the Writ Appeal as against the order dated 28.08.2019 passed by the learned Single Judge in W.P.No.23644 of 2018 on the file of this Court.

2. In the affidavit filed in support of the petition, it is stated that the above Writ Appeal was filed by the appellant to set aside the order dated 28.08.2019 passed by the learned Single Judge in W.P.No.23644 of 2018 on the file of this Court. The order copy in the said Writ Petition was received by the appellant on 06.09.2019 and the opinion of the learned Government Pleader was sought for on 10.09.2029. The learned Government Pleader, in his opinion, dated 18.10.2019, opined that it is not a fit case for filing Writ Appeal. Subsequently, the opinion of the learned Advocate General of Tamil Nadu was sought for on 28.01.2020, who in his opinion dated 07.02.2020, had stated that appeal should be filed immediately against the

said order passed by the learned Single Judge. It is further stated in the affidavit filed in support of the present C.M.P. that due to the above said compelling factors, the Writ Appeal could not be filed within the time stipulated and as such, in the above process, the delay of 169 days had occurred. The said delay is neither wilful nor wanton. Hence, the present C.M.P. is filed to condone the said delay.

3. The learned counsel appearing for the respondent-writ petitioner, while vehemently opposing the said delay, submitted on merits that no valid reasons had been stated in the affidavit for the delay and the delay had not been properly explained by the appellant. Hence, he prayed that the delay may not be condoned.

4. Be that as it may. We are of the view that with regard to the delay of 169 days, it is stated by the appellant that, originally, they have sought for the opinion from the learned Government Pleader, who stated that this is not a fit case for filing appeal, but subsequently they have also sought for the opinion of the learned Advocate General, who opined and instructed that this is a fit case for filing appeal. In the above process, the said delay had occasioned. In the facts and circumstances of the present case, the delay of

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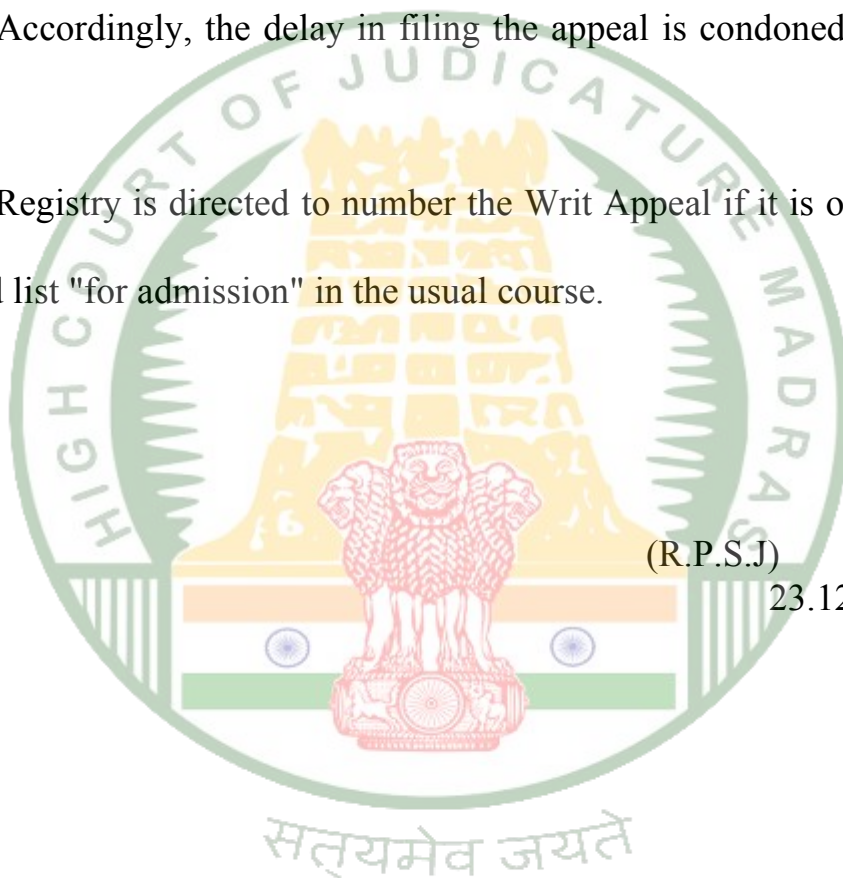
169 days cannot be said to be inordinate in nature. If the delay is condoned, the appellant will have a chance for contesting the matter on merits. Therefore, we are inclined to condone the delay.

5. Accordingly, the delay in filing the appeal is condoned. C.M.P. is allowed.

6. Registry is directed to number the Writ Appeal if it is otherwise in order and list "for admission" in the usual course.

(R.P.S.J) (C.S.N.J)
23.12.2020

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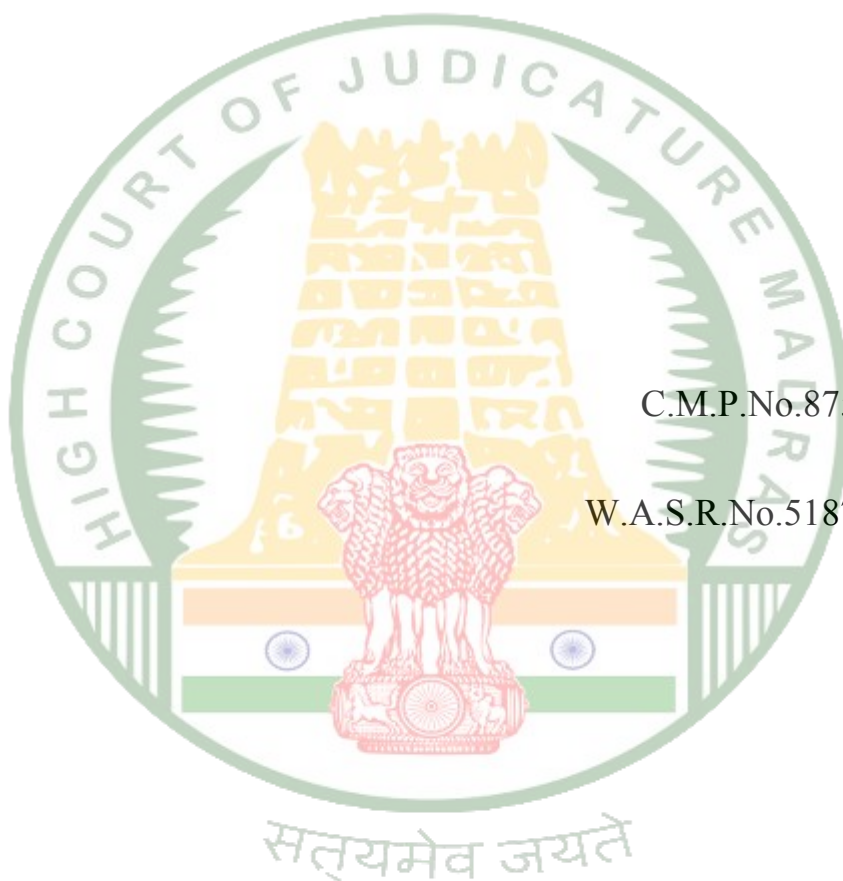


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