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C.M.P. No.13517 of 2024
in Appeal (CAD) SR. No.59000 of 2024

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M.SUNDAR,J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,

(Order of the Court was made by K.GOVINDARAJAN THILAKAVADI, J.)

Captioned 'Civil Miscellaneous Petition' (hereinafter 'CMP' for the sake of brevity) has been filed to condone the delay of 221 days in filing the appeal in Appeal (CAD) SR. No.59000 of 2024 against the order dated 05.04.2023, dismissing the suit in C.O.S.No.1287 of 2022 on the file of the Commercial Court at Chennai.

2. According to the petitioner, the reasons for the delay are narrated in paragraphs 4 and 5 of the support affidavit and the said paragraphs are extracted hereunder:

'4. I submit that the Learned Trial Judge was pleased to reserve orders in the subject suit on 05.04.2023. Subsequently, the petitioner applied for a copy of the said Judgment and Decree on 06.04.2023. I further submit that the said original copies were made ready on 24.07.2023 and the petitioner had collected the same from the registry of the Hon'ble Trial Court on 26.07.2023.



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5. *I respectfully submit that subsequent to the receipt of the copy of the order, the said Judgment and Decree dated 05.04.2023 was discussed in detail with the Directors of the Petitioner Company and it was decided to file an Appeal before this Hon'ble Court against the Judgment and Decree dated 05.04.2023. I had shared the original copy of the order and other documents pertaining to the subject suit to my counsel's Clerk Mr.R.Vijay, who had received the same, has discontinued his services with the Counsel and also the counsel office was shifted from No.49/5, Kalyani Flats, Kannadasan Salai, T.Nagar, Chennai – 600 017 to Office II – D, 3rd Floor, Regency House, No.341/250, Anna Salai, Teynampet, Chennai – 600 009. These aspects have caused the suit papers got mixed up with certain other papers which are unsegregatable, as a result of which the required papers have not been submitted to this Hon'ble Court.'*

3. Mr.Ram Kumar Natarajan, learned counsel for the petitioner reiterated the same and submitted that the delay is neither wilful nor wanton and if the delay is not condoned, the petitioner will suffer irreparable loss. Hence he prays for condoning the delay.

4. Mr.A.Lakshmipathi, learned counsel for respondent would submit that the petitioner ought to have been more diligent in filing



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the appeal in time and the reasons set out in the support affidavit are neither sufficient nor reasonable to condone the delay of 221 days in filing the present appeal. He further submits that the inconvenience caused to the respondent in allowing the present petition should also be taken into consideration.

5. Though the delay is not sufficiently explained, in the interest of justice and considering the facts and circumstances of the case, we are inclined to allow the petition on costs. Accordingly, the petition is allowed on condition that the petitioner pays a sum of Rs.10,000/- (Rupees Ten Thousand only) as costs to Blue Cross of India, No.72, Velachery Road, Guindy, Chennai -32 either through online mode or directly within a period of two weeks from today i.e., on or before 04.09.2024. In the event of failure to comply with the said condition, captioned CMP shall stand dismissed automatically without any further reference to the court.

6. List the matter on 11.09.2024 under the caption 'FOR REPORTING COMPLIANCE'.

(M.S.J.) (K.G.T.J.)
21.08.2024

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**M.SUNDAR,J.,
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K.GOVINDARAJAN THILAKAVADI, J.,**

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