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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-08-2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

Arb O.P(COM.DIV.) No. 183 of 2026

M/s.Ashok Transport
Represented by its Proprietor,
Mr.S.Palanivelu,
Plot No.28, LIC Colony,
Malligai Street,
Shanthi Nagar, Madurai - 625 018.

..Petitioner

Vs

The Managing Director
Tamilnadu Warehousing Corporation,
Head Office, No.82, AnnaSalai, Guindy,
Chennai - 600 032.

..Respondent

Arbitration Original Petition filed under Section 11 of the Arbitration and Conciliation Act, 1996, to appoint an arbitrator, to adjudicate the dispute between the Petitioner and the Respondent in accordance Clause contained in the Tender Conditions governing the Handling and Transport (H and T) contract at Karaikudi whereby the petitioner was awarded contract vide work Order No.Rc.1307/2011/G1 dated 22.02.2011 and to direct the Respondent to pay costs.

For Petitioner : Mr.L.K.Dibeeshwar
For Respondent : Mr.K.V.Muthuvisakan



ORDER

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2. Heard the learned counsel for the applicant.

3. A primordial issue has been raised by the learned counsel for the respondent that the present arbitration application is wholly time barred. He would submit that originally, the petitioner had issued a notice under Section 21 of the Arbitration and Conciliation Act, 1996 [in short, 'the Act'] as early as in the year 2020 and did not proceeded thereafter to invoke the provision of Section 11 of the Act and had continued to sent similar notices, which had been repudiated by the respondent. Hence, he would submit that the present application under Section 11 of the Act is time barred by applying the ratio laid down by the Hon'ble Apex Court in the case of *M/s.Arif Azim Co.Ltd Vs. M/s.Aptech Ltd [2024 INSC 155]* and *SBI General Insurance Co.Ltd Vs. Krish Spinning [Civil Appeal No.7821 of 2024]*.

4. On the contrary, the learned counsel for the petitioner would attempt to substantiate the claim by placing reliance upon notice under Section 21, which was issued on 17.09.2025 and followed with a legal notice on 25.10.2025.



Hence, he would pray this Court to appoint an Arbitrator for resolution of the dispute between the parties.

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5. I have considered the submissions made on either side.

6. From the documents filed along with the typed set, it could be seen that the petitioner had initially issued Section 21 notice as early as on 14.09.2020. After issuance of the said notice, section 11 have to be initiated, but thereafter, the petitioner had been in the habit of repeatedly sending communications invoking Section 21 of the Act.

7. As rightly pointed out by the learned counsel for the respondent, it had been categorically held by the Hon'ble Apex Court in the judgments referred supra that Section 11 application has to be filed within 30 days after the issuance of Section 21 notice by following the procedures contemplated under Article 21 and in that regard counting the period of limitation is from the first date of Section 21, hence, the present OP is time barred. It is also to be noted that such repeated request would not extend the period of limitation, which had started to run from the first notice of Section 21 of the Act.



8. In that regard, this Court do not find that this Arbitration Original
Petition is within the period of limitation and accordingly, the same stands
dismissed. No costs.

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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K.KUMARESH BABU J.

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