IN THE SINGAPORE INTERNATIONAL COMMERCIAL COURT OF THE REPUBLIC OF SINGAPORE

[2026] SGHC(I) 15

Originating Application Nos 13, 24 and 25 of 2025

Between

The Tata Power Company Limited

… *Applicant*

And

Kleros Capital Partners Limited

… *Respondent*

JUDGMENT

[Arbitration — Award — Recourse against award — Setting aside — Breach of natural justice]
[Arbitration — Award — Recourse against award — *Infra petita* challenge]
[Arbitration — Award — Recourse against award — Breach of natural justice — Whether tribunal demonstrated apparent bias]

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The Tata Power Co Ltd
v
Kleros Capital Partners Ltd and other matters

[2026] SGHC(I) 15

Singapore International Commercial Court — Originating Application Nos 13, 24 and 25 of 2025
S Mohan J, Anthony Besanko IJ, Anthony Meagher IJ
16–18 March, 28 May 2026

26 August 2026 Judgment reserved.

S Mohan J (delivering the judgment of the court):

Introduction

1 In the context of arbitration proceedings, the twin pillars of natural justice, namely the right to a fair hearing and by an independent unbiased tribunal, mark out the guardrails within which a fair adjudicative process steers its course. Both of these pillars ensure that the arbitral process does not sail beyond its proper bounds in terms of ensuring fair and due process. Fairness, however, is not synonymous (nor is it to be confused) with procedural perfection, soundness of reasoning or correctness of the outcome. For that reason, our courts have consistently emphasised that only irregularities that are egregious and occasion real and proven prejudice justify judicial intervention. Unless the alleged breaches have deprived the applicant of a meaningful

opportunity to be heard or affected the substance of the decision, the court ought not to set aside or disturb an otherwise sound arbitral determination.

2 The applicant in SIC/OA 13/2025, SIC/OA 24/2025 and SIC/OA 25/2025 ("OA 13", "OA 24" and "OA 25" respectively) invokes both limbs of natural justice in support of its applications. For the reasons that follow, we dismiss all three applications.

Facts

3 The applicant is The Tata Power Company Limited ("Tata"), a listed company incorporated in India and which forms part of a leading Indian industrial group with its principal businesses in power generation and coal mining.[1] The respondent, Kleros Capital Partners Limited ("Kleros"), is a company incorporated in the British Virgin Islands established as an investment advisory firm specialising in the facilitation of cross-border mergers and acquisitions, leveraged buyouts and strategic investment alliances.[2] Kleros was founded by two investment managers, Mr Ingolfur Skulason ("Mr Skulason") and Mr Probodh Palit ("Mr Palit").[3] Mr Skulason and Mr Palit both provided evidence in the form of witness statements in the present proceedings.

4 The dispute before us arises from arbitral proceedings commenced on 30 November 2020 by Kleros against Tata ("Arbitration"). The arbitral tribunal comprised Prof Lawrence Boo ("Prof Boo") as the presiding arbitrator and Mr

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1 Witness Statement of Shantanu Singh for SIC/OA 24/2025 and SIC/OA 25/2025 dated 23 October 2025 ("WS–SS for OA 24/25") at para 8.

2 WS–SS for OA 24/25 at para 9. Kleros's Re-Amended Statement of Claim in the Arbitration dated 6 May 2023 at paras 2–3 (found in Witness Statement of Ingolfur Skulason for SIC/OA 24/2025 and SIC/OA 25/2025 dated 20 November 2025 ("WS–IS for OA 24/25") at p 567).

3 WS–SS for OA 24/25 at para 9.

A K Ganguli SA ("Mr Ganguli SA") and Mr Stuart Isaacs KC ("Mr Isaacs KC") as co-arbitrators,[4] nominated by Tata and Kleros respectively.[5] The Arbitration was bifurcated into two phases – the first phase concerned liability *ie*, whether Tata had breached its obligations under two non-disclosure agreements ("NDAs"), and the second concerned causation and quantum.[6]

5 In the Arbitration, Kleros alleged that Tata had breached the NDAs entered into by the parties, and sought as its primary claim, damages for the loss of the chance to invest and/or participate in the project concerned as the principal investor and shareholder and to profit therefrom.[7] In its Liability Award, the Tribunal unanimously found Tata to have breached the NDAs in a number of respects. The Liability Award is not challenged by Tata. In the Quantum Award, Prof Boo and Mr Isaacs KC formed the majority ("Majority"), with Mr Ganguli SA dissenting ("Dissent" or "Minority").[8] In the Quantum Award, the Majority awarded Kleros damages amounting to approximately US$490m representing the value of that loss of chance.[9]

4 WS–SS for OA 24/25 at para 41. WS–IS for OA 24/25 at para 9(a).

5 WS–SS for OA 24/25 at para 41.

6 WS–SS for OA 24/25 at paras 44 and 55. Liability Award at p 24 (found in WS–SS for OA 24/25 at Exhibit SS–8). Witness Statement of Barry Philip Stimpson for SIC/OA 13/2025 dated 11 August 2025 ("WS–BPS") at para 12. WS–IS for OA 24/25 at para 38(a).

7 WS–SS for OA 24/25 at para 42(a). Kleros's Statement of Claim dated 19 July 2021 ("KSC") (found in WS–SS for OA 24/25 at Exhibit SS–32).

8 WS–SS for OA 24/25 at p 397. Witness Statement of Ingolfur Skulason for Kleros's enforcement application dated 24 July 2025 ("WS–IS for Enforcement") at para 18.

9 Quantum Award at p 198 (found in WS–SS for OA 24/25 at Exhibit SS–1).

Background to the applications

6 The Arbitration arose from two NDAs dated 21 September 2013 and 16 September 2014 respectively. Each NDA contained an arbitration clause at clause 11, pursuant to which any dispute was to be arbitrated in Singapore pursuant to the Arbitration Rules of the Singapore International Arbitration Centre (6th ed, 1 August 2016) ("SIAC Rules 2016").

7 It was alleged by Kleros that through contacts it had developed and who possessed geological expertise relating back to the Soviet era, Kleros had obtained knowledge of a substantial amount of coal deposits in Russia estimated at approximately 1.1b tons, in what is known to the parties as the Krutogorovo deposit ("Deposit"). Kleros conceived of a large-scale project to extract the coal through surfacing, mining, washing, processing and transportation by road and barge. As the area surrounding the Deposit lacked essential infrastructure, transportation networks, power supply, electrical facilities and accommodation, was situated far from the sea and other transport links, and also because of the need for significant financial support and the necessary permits, the project required buy-in from the senior levels of the Russian federal government.[10]

8 On 27 August 2013, Kleros approached Tata as a potential co-investor and informed Tata that it would soon acquire a mining licence for the Deposit.

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[10] WS–SS for OA 24/25 at paras 11–14. Liability Award at para 1 (found in WS–SS for OA 24/25 at Exhibit SS–8). Quantum Award at paras 219–222 (found in Exhibit SS–1). First Witness Statement of Ingolfur Skulason dated 5 August 2022 at para 8b (found in WS–SS for OA 24/25 at Exhibit SS–13). Liability Award at para 16 (found in WS–SS for OA 24/25 at Exhibit SS–8). Re–Amended Statement of Claim dated 6 May 2023 ("RASOC") at para 16 (found in WS–SS for OA 24/25 at Exhibit SS–9). Kleros's Closing Statement (Liability) dated 31 January 2023 ("KCS (Liability)") at para 86 (found in WS–SS for OA 24/25 at Exhibit SS–22). Tata's Closing Submissions (Liability) dated 31 January 2023 ("TCS (Liability)") at para 36(d) (found in WS–SS for OA 24/25 at Exhibit SS–23).

In accordance with its standard practice of conducting detailed due diligence, including a commercial and technical evaluation before committing to any investment opportunity, Tata sought further information from Kleros in respect of the Deposit.[11] This led to the parties entering into the first NDA for a term of one year, expiring on 20 September 2014 ("2013 NDA").[12] Following this, Tata's representatives concluded that the investment opportunity required further evaluation before its commercial and technical viability could be assessed.[13]

9 On 16 September 2014, Kleros and Tata entered into a second NDA for a term of three years, expiring on 15 September 2017 ("2014 NDA"). The 2014 NDA was later found by the Tribunal to be an extension of the 2013 NDA.[14]

10 In the course of the parties' dealings under the NDAs, Kleros also shared with Tata information regarding, *inter alia*, the Deposit and the auction process for obtaining the mining licence.[15] The NDAs imposed upon Tata two overarching obligations: first, to maintain the confidentiality of, and not to misuse, the confidential information as defined in clause 1.5 of the NDAs; and

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11 WS–SS for OA 24/25 at paras 16–20. Liability Award at para 177 (found in WS–SS for OA 24/25 at Exhibit SS–8). Witness Statement of Minesh Dave dated 14 September 2022 ("WS–MD") at para 10h (found in WS–SS for OA 24/25 at Exhibit SS–16). Email from Kleros to Tata dated 15 February 2014 (found in WS–SS for OA 24/25 at Exhibit SS–17). Liability Award at p 7 (found in WS–SS for OA 24/25 at Exhibit SS–8). Liability Award at para 17 (found in WS–SS for OA 24/25 at Exhibit SS–8). Email from Kleros to Tata dated 27 August 2013 (found in WS–SS for OA 24/25 at Exhibit SS–15). Emails from Tata to Kleros dated 28 August 2013 and 2 September 2013 (found in WS–SS for OA 24/25 at Exhibit SS–15). WS–MD at para 10(e) (found in WS–SS for OA 24/25 at Exhibit SS–16).

12 WS–SS for OA 24/25 at para 18.

13 WS–SS for OA 24/25 at paras 18–19.

14 Liability Award at para 41 (found in WS–SS for OA 24/25 at Exhibit SS–8).

15 WS–SS for OA 24/25 at paras 18–19.

second, an obligation of non-circumvention and good faith in its dealings with Kleros.[16] The relevant clauses in both NDAs, which were largely identical, are reproduced below:

(a) Clause 1.5 defined "Confidential Information" as referring to "all information and know-how, regardless of the format whether or not in writing, of a private, secret or confidential nature that relates to the personal, business, technical or financial affairs of the Disclosing Party which forms part and parcel of this agreement provided or disclosed to the Receiving Party or which becomes known to the Receiving Party, whether or not marked or otherwise designated as "Confidential" or with any other legend indicating its Confidential nature. Confidential Information includes, by way of illustration and not limitation, all forms and types of financial Evaluation materials, business, technical, economic, or engineering information, designs, plans, drawings, software, electronic record whether tangible or intangible, and whether or not stored in any electronic, magnetic or optical medium compiled, or memorialized physically, electronically, graphically, photographically, or in writing…".

(b) Clause 3 titled the "Maintenance of Confidentiality" provided that "the Receiving Party agrees that it shall secure and keep such Confidential Information confidential and…", and listed a further number of prohibited and permissible scope of actions by

[16] WS–SS for OA 24/25 at para 21. 2013 NDA (found in WS–SS for OA 24/25 at Exhibit SS–6). 2014 NDA at Clause 3.3 (found in WS–SS for OA 24/25 at Exhibit SS–7). 2014 NDA at Clause 19 (found in WS–SS for OA 24/25 at Exhibit SS–7). 2014 NDA at Preamble B (found in WS–SS for OA 24/25 at Exhibit SS–8). Liability Award at para 75 (found in WS–SS for OA 24/25 at Exhibit SS–8).

Tata (as the "Receiving Party") with respect to the Confidential Information as defined.

(c) Clause 20 of the 2013 NDA and clause 19 of the 2014 NDA, both titled "Non Circumvention", provided that Tata as the "Receiving Party": "agrees and warrants that it shall not, directly or indirectly, make any agreements (verbal, written or otherwise), contracts, dealings, investments, or enter into any joint venture, merger, reorganization, vendor relationship, or other business combination or transaction, directly or indirectly, to exploit any aspect of the Confidential Information disclosed by Disclosing Party pursuant to this Agreement, or enter into any transaction directly with any person introduced by the Disclosing party, for which Disclosing Party may be entitled to receive any benefit (economic or otherwise), during the term or the termination of the agreement, whichever is earlier, in circumvention of the Disclosing Party's economic interest".

11 In the second half of 2015, the parties' relationship began to strain following disputes over who should lead the bid for the mining licence and the respective levels of equity participation – matters which were not covered by the NDAs and would have to be resolved in any subsequent joint venture agreement. In particular, Kleros sought an equity stake of between 26% and 60%, whereas Tata was only prepared to offer Kleros up to a 10% equity stake.[17] On 31 March 2016, a meeting was convened between Tata and Kleros, which

[17] WS–SS for OA 24/25 at paras 26–27. Dissenting Opinion at para 133 at Annex B of the Quantum Award (found in Exhibit SS–1). Email from Kleros to Tata dated 10 January 2016 (found in WS–SS for OA 24/25 at Exhibit SS–26). Dissenting Opinion at para 154 at Annex B of the Quantum Award (found in Exhibit SS–1).

Kleros submits effectively brought the relationship between the parties to an end.[18]

12 It is not presently in dispute that, while the 2014 NDA was still in force and around the time the parties' relationship began to come under strain in the second half of 2015, Kleros began approaching other potential partners, at least preliminarily, to work with it on the project in place of Tata.[19] Kleros approached, for example, the Japanese Organisation for Metals and Energy Security, which put Kleros in touch with the Marubeni Corporation, and also a Vietnamese broker Mr Vinh Pham, Hannam and Partners, and Red Star UK.[20] Kleros was, however, unable to find a replacement partner.[21]

13 Eventually, Kleros did not submit a bid to the Russian federal government for the mining licence in the public auction held on 22 December 2017. Between 2017 and 2019, Kleros wound down its operations in the Russian Federation. It also stopped paying its annual filing fee to the BVI Financial Services Commission and was subsequently removed from the Register of Companies.

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18 Quantum Award at para 314 (found in Exhibit SS–1).

19 WS–SS for OA 24/25 at paras 23, 26 and 29. Quantum Award at para 185 (found in Exhibit SS–1). Dissenting Opinion at para 64 at Annex B of the Quantum Award (found in Exhibit SS–1).

20 Dissenting Opinion at paras 81–85 at Annex B of the Quantum Award (found in Exhibit SS–1).

21 WS–SS for OA 24/25 at paras 30–31. BVI Financial Services Commission, Registry of Corporate Affairs, Register of Companies Search Report dated 22 September 2021 (found in WS–SS for OA 24/25 at Exhibit SS–27). Kleros's Certificate of Restoration to the Register dated 17 November 2020 (found in WS–SS for OA 24/25 at Exhibit SS–28).

14 After the 2014 NDA expired on 15 September 2017, Tata, through a Russian subsidiary, FENR, submitted a bid to the Russian federal government for the mining licence in the public auction conducted in December 2017. FENR was granted the mining licence on 22 January 2018 for a term of 25 years, ending on 22 January 2043.[22] Tata later determined, however, that the project was not viable. To Tata's knowledge, the project was never developed by any other party.[23]

15 In 2021, after commencement of the Arbitration by Kleros (see below at [16]) Tata offered the mining licence to Kleros at the same price at which it (through FENR) had bid for and obtained it. Kleros rejected the offer.[24] On 28 January 2022, FENR submitted a request to the Russian federal government to surrender the licence without having utilised it.[25] The Russian federal government accepted the surrender request on 25 April 2022.

16 Kleros was restored to the company register in the British Virgin Islands on 17 November 2020, and shortly after, commenced two arbitrations against Tata by way of a Notice of Arbitration dated 30 November 2020 in respect of each of the NDAs.[26] Tata filed its Response to the Notice of Arbitration on 5 January 2021, rejecting the alleged breaches, and on 11 February 2021 the

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22 Liability Award at para 322 (found in WS–SS for OA 24/25 at Exhibit SS–8).

23 WS–SS for OA 24/25 at para 33. Dissenting Opinion at paras 117(a)–117(e) at Annex B of the Quantum Award (found in Exhibit SS–1).

24 TCS (Liability) at para 36(i) (found in WS–SS for OA 24/25 at Exhibit SS–23).

25 Letter from FENR to the Russian federal government dated 28 January 2022 (found in WS–SS for OA 24/25 at Exhibit SS–29).

26 Kleros's Certificate of Restoration to the Register dated 17 November 2020 (found in WS–SS for OA 24/25 at Exhibit SS–28). Notice of Arbitration dated 30 November 2020 (found in WS–SS for OA 24/25 at Exhibit SS–30). First Witness Statement of Shantanu Singh dated 10 September 2025 ("First WS–SS") at paras 30–31.

SIAC consolidated the two arbitrations into the Arbitration.[27] Kleros's case was that Tata had breached the NDAs by misusing the confidential information disclosed thereunder and by acting in bad faith in excluding Kleros from the project.[28]

17 As prefaced above at [4], the Arbitration was bifurcated with liability being determined first. The Liability Award was issued by the Tribunal on 26 September 2023 as SIAC Award No. 122 of 2023. The Tribunal found unanimously that Tata was liable for a number of breaches of the NDAs – specifically, that Tata had misused confidential information in breach of clause 3.3 of the NDAs, circumvented Kleros in breach of clause 19 of the 2014 NDA and breached its contractual duty of good faith to Kleros.[29] The Tribunal found that the breaches included Tata making several incorrect statements to Kleros which led Kleros to believe that Tata had not disclosed confidential information to any third party, and which in turn led Kleros – being unaware of Tata's true conduct – to continue dealing with Tata while Tata was in fact planning and making arrangements to push Kleros out of the picture and acquire the mining licence for itself to the exclusion of Kleros.[30]

18 After the Liability Award was issued, the Arbitration continued to the second phase to determine causation and damages. On 28 October 2024, the

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[27] Response to Notice of Arbitration dated 5 January 2021 (found in WS–SS for OA 24/25 at Exhibit SS–31). Liability Award at p 15 (found in WS–SS for OA 24/25 at Exhibit SS–8).

[28] RASOC at para 168B (found in WS–SS for OA 24/25 at Exhibit SS–9).

[29] WS–SS for OA 24/25 at para 46. Liability Award at p 166 (found in WS–SS for OA 24/25 at Exhibit SS–8). Liability Award at para 443 (found in WS–SS for OA 24/25 at Exhibit SS–8).

[30] Liability Award at p 166 (found in WS–SS for OA 24/25 at Exhibit SS–8). Liability Award at para 443 (found in WS–SS for OA 24/25 at Exhibit SS–8).

Tribunal declared the Arbitration closed pursuant to Rule 32.1 of the SIAC Rules 2016,[31] and on 4 December 2024 submitted a draft final award to the Registrar of the SIAC Court pursuant to Rule 32.3 of the SIAC Rules 2016.[32]

19 On 21 January 2025, following the Tribunal's submission of the draft Quantum Award on 4 December 2024, Tata filed a Notice of Challenge with the SIAC Registrar under Rules 14 and 15 of the SIAC Rules 2016, challenging the appointments of Prof Boo and Mr Isaacs KC.[33] The grounds of the challenge were that:[34]

(a) the challenged arbitrators failed to disclose their respective appointments in other arbitration proceedings involving Omni Bridgeway Limited, the third-party funder behind Kleros;

(b) the challenged arbitrators failed to disclose their respective appointments in other matters in which Squire Patton Boggs – legal counsel for Kleros – was acting for a party;

(c) there was a lack of even-handedness in the Tribunal's treatment of Tata, including in respect of the Liability Award; and

(d) there were *ex parte* communications between Mr Isaacs KC and Kleros's counsel.

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31 WS–IS for OA 24/25 at para 297.

32 Decision on the Respondent's Challenge to Arbitrators dated 5 June 2025 at para 33 (found in WS–IS for OA 24/25 at TAB 6).

33 WS–BPS at para 17. Email from DSK to the SIAC, Tribunal and SPB with enclosures dated 21 January 2025 (found in Exhibit BPS–1 at TAB 46, p 176).

34 Witness Statement of Shantanu Singh for SIC/OA 13/2025 dated 4 July 2025 ("WS–SS for OA 13") at para 15.

20 On or about 28 January 2025, the SIAC Registrar ordered a suspension of the Arbitration pending resolution of Tata's challenge.[35] The parties thereafter exchanged submissions on the challenge in the following sequence. On 28 January 2025, Prof Boo responded to the SIAC's invitation for comment by referring to his earlier email responses to Tata,[36] while Mr Isaacs KC asserted the challenge to be "wholly without foundation and without merit".[37] Kleros filed its response on 7 February 2025, asserting that the challenge should be dismissed.[38] On 10 February 2025, Squire Patton Boggs wrote to the SIAC regarding Tata's reservation of rights in this challenge, in which Tata had stated that it "expressly reserves the right to particularise, add to, amend and/or supplement the factual and legal matters set out herein, and to provide further grounds, evidence and authority in support of its challenge".[39] On 16 February 2025, Mr Ganguli SA then provided comments on the Notice of Challenge and Kleros's response.[40] The following day, Kleros made a clarification to one of the paragraphs of its response.[41] Tata's reply to Kleros's response followed on 21 February 2025, with Kleros responding in turn on 24 February 2025 seeking

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35 WS–SS for OA 24/25 at p 395.

36 Email from Prof Boo to the Parties dated 28 January 2025 (found in Exhibit BPS–1 at TAB 33, p 145).

37 Email from Mr Stuart Isaacs KC dated 28 January 2025 (found in WS–BPS at TAB 55, pp 197–198).

38 Kleros's Response to Tata's Notice of Challenge dated 7 February 2025 at [24.2] and footnote 20 (found in WS–BPS at Exhibit BPS–1, TAB 94, p 369).

39 Tata's Notice of Challenge dated 21 January 2025 at para 50 (found in Exhibit BPS–1 at TAB 93, p 356).

40 Decision on the Respondent's Challenge to Arbitrators dated 5 June 2025 at para 116 (found in WS–BPS at TAB 90, pp 305–306).

41 Decision on the Respondent's Challenge to Arbitrators dated 5 June 2025 at paras 117 and 147 (found in WS–BPS at TAB 90, pp 306–307).

leave to respond to new allegations said to be made in Tata's response.[42] On 25 February 2025, Tata objected to Kleros's request. The SIAC granted Kleros leave to do so and also granted Tata and the Tribunal the right to provide responsive comments.[43]

21 A further round of submissions ensued in March 2025. Tata's comments of 3 March 2025 were directed principally at the alleged *ex parte* communications between Kleros and Mr Isaacs KC, and to which allegations Mr Isaacs KC responded on the same date. Tata made additional submissions on the alleged *ex parte* communications on 4 March 2025, with Prof Boo providing his comments on 6 March 2025. On 6 March 2025, the SIAC informed the parties that no further comments or submissions would be considered in respect of the challenge without leave from the Registrar or unless requested by the SIAC Court of Arbitration.[44] Nonetheless, on 20 March 2025, Tata made further submissions regarding the payment of deposits on behalf of Kleros by "Omni Bridgeway (Fund 5) Cayman" and "Omni Bridgeway (Fund 5) Cayman Investment".[45] On the same day, Prof Boo issued further responses arising from a communication from Tata's counsel the previous day. Further submissions from both Kleros and Tata followed on 24 March 2025.[46]

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42 Decision on the Respondent's Challenge to Arbitrators dated 5 June 2025 at para 118 (found in WS–BPS at TAB 90, pp 307 and 311–312).

43 Email from DSK to the SIAC, Tribunal and the Parties dated 25 February 2025 (found in Exhibit BPS–1 at TAB 72, p 234). Email from the SIAC to the Tribunal and the Parties dated 25 February 2025 (found in Exhibit BPS–1 at TAB 73, p 236).

44 Email from the SIAC to the Tribunal and the Parties dated 6 March 2025 (found in Exhibit BPS–1 at TAB 81, p 256).

45 Email from DSK to the SIAC, Tribunal and SPB dated 20 March 2025 (found in Exhibit BPS–1 at TAB 83, p 263).

46 WS–BPS at paras 16–19.

22 Tata's challenge was considered and dismissed by the SIAC Court on 5 June 2025 in a written reasoned decision, and following which, the suspension of the Arbitration was lifted. On 1 July 2025, the Quantum Award was issued as Award No. 094 of 2025.[47] It comprised two parts – the decision of the Majority, and the Dissent.[48]

23 On 4 July 2025, Tata filed OA 13 to challenge the appointments of the Majority and the SIAC Court's decision. When OA 13 was filed, Tata's grounds of challenge were as follows. First, that Prof Boo and Mr Isaacs KC each failed to disclose their respective appointments in unrelated matters involving Kleros's legal counsel Squire Patton Boggs, and that this failure gave rise to justifiable doubts as to their independence and impartiality.[49] In respect of Prof Boo specifically, the alleged non-disclosure concerned his appointment in May 2024 by the Chairman of the ICSID Administrative Council to preside over an *ad hoc* annulment committee in the case of *Rand Investments Ltd v Republic of Serbia*. Further, Tata submitted that there were *ex parte* communications between Mr Isaacs KC and Squire Patton Boggs at the outset of the Arbitration, contending that these raised further doubts as to Mr Isaacs KC's independence and impartiality.[50] Lastly, Tata also contended that Prof Boo had a close connection with Mr Benjamin Hughes ("Mr Hughes"). Mr Hughes was a member of the investment committee of Omni Bridgeway Limited – the third-party funder behind Kleros – and who, Tata alleges, was likely involved in this case even prior to its inception.[51] Tata also relied on the fact that both Prof Boo

[47] WS–IS for OA 24/25 at para 9(a).

[48] WS–SS for OA 24/25 at para 62.

[49] WS–SS for OA 13 at para 22(a).

[50] WS–SS for OA 13 at para 22(b).

[51] WS–SS for OA 13 at paras 15(a) and 24.

and Mr Hughes have served as adjunct professors in the Faculty of Law at the National University of Singapore.[52]

24 On 20 July 2025, Tata sought corrections to the Quantum Award, and after Kleros confirmed its absence of objection on 23 July 2025,[53] these corrections were made by the Tribunal in a Memorandum of Corrections dated 2 August 2025, registered as Award No. 094(a) of 2025.[54]

25 On 27 August 2025, the Tribunal issued the Final Award, registered as SIAC Award No. 129 of 2025. The Final Award addressed the remaining issues pertaining to costs of the Arbitration that had been held over for determination in accordance with the dispositive section in the Quantum Award. These costs concerned the expenses of the Arbitration as finally determined by the SIAC (including the Tribunal's costs), the costs of the challenge brought by Tata pursuant to Rules 14 and 15 of the SIAC Rules, and the costs incurred in reviewing the Quantum Award and preparing further submissions on costs.[55] The Final Award also contained two parts – the decision of the Majority, and an additional dissenting opinion of Mr Ganguli SA.

The present applications

26 OA 13, OA 24 and OA 25 are all applications brought by Tata. As explained above, OA 13 is Tata's challenge to the appointments of Prof Boo and Mr Isaacs KC as arbitrators in the Arbitration on the ground of apparent bias, brought pursuant to Article 13(3) of the UNCITRAL Model Law on

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52 WS–SS for OA 13 at para 24.

53 WS–SS for OA 24/25 at p 397.

54 WS–IS for OA 24/25 at para 9(b).

55 WS–SS for OA 24/25 at para 66. Final Award (found in WS–SS for OA 24/25 at Exhibit SS–5).

International Commercial Arbitration (1985, amended 2006) ("Model Law"), read with s 3 of the International Arbitration Act 1994 ("IAA").[56] OA 24 and OA 25 are Tata's applications to set aside, respectively, the Quantum Award and Final Award, whether in their entirety or in part, on the basis of alleged breaches of natural justice (*ie*, *infra petita* challenges / breach of agreed arbitral procedure) and/or apparent bias.[57]

27 OA 24 is advanced on the following grounds: first, in its supporting witness statement, Tata contends that the Majority breached the rules of natural justice and/or the fair hearing rule under s 24(*b*) of the IAA, and/or acted contrary to the agreed procedure under Article 34(2)(*a*)(iv) of the Model Law, by reason of the following:[58]

(a) abdicating their duty to analyse and failing to apply its mind to the essential issue of causation in respect of each of the breaches of the NDAs found by the Tribunal in the Liability Award (the "Causation Issue");

(b) abdicating their duty to analyse and failing to apply its mind to the essential issue of remoteness, notwithstanding that it was common ground between the parties that Kleros's ability to recover damages for a loss of chance was subject to such loss not being too remote (the "Remoteness Issue"); and

(c) failing to inform the parties that the Majority had come to the view that the issue of mitigation was irrelevant to a loss of

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56 Originating Application for SIC/OA 13/2025 filed 4 July 2025 at para 2.

57 Originating Application for SIC/OA 24/2025 filed 23 October 2025. Originating Application for SIC/OA 25/2025 filed 23 October 2025.

58 WS–SS for OA 24/25 at para 6. Originating Application for SIC/OA 24/2025 filed 23 October 2025 at para 2.

chance claim, failing to afford the parties the opportunity to address the Tribunal on that view, as well as abdicating their duty to analyse and failing to apply its mind to the essential issue of mitigation, notwithstanding that the parties had accepted in the Arbitration that Kleros could recover damages for loss of chance only if it discharged its duty to mitigate its losses (the "Mitigation Issue").

28 Second, Tata submits that the Majority exceeded the scope of the submission under Article 34(2)(*a*)(iii) of the Model Law by making a finding on damages that went beyond the relief sought by Kleros in its pleadings. Third, it submits that the Majority's breaches of natural justice and its non-disclosures give rise to a reasonable suspicion or apprehension, in a reasonable, fair-minded and informed observer with knowledge of the relevant facts, that a fair hearing was not possible.[59]

29 As for OA 25, Tata does not advance any independent grounds for setting aside the relevant aspects of the Final Award. Rather, OA 25 stands or falls with OA 24 – if the Quantum Award is set aside, Tata submits that it follows that the aspects of the Final Award that flow from it should be set aside as well.[60]

30 Finally, it is noted that Tata has amended the scope of its complaints in its written submissions in the present application to set aside the Quantum Award. First, Tata clarifies that it will not pursue the ground previously referred to at [121]–[168] of Mr Shantanu Singh's witness statement – namely, that the

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59 WS–SS for OA 24/25 at para 6. Originating Application for SIC/OA 24/2025 filed 23 October 2025 at para 2.

60 Originating Application for SIC/OA 25/2025 filed 23 October 2025 at para 2.

Majority exceeded the scope of submission in respect of the quantification of Kleros's loss and damage.[61] Second, Tata had initially filed OA 13 as a challenge against the Majority as a protective step so as not to prejudice or waive any arguments it might wish to raise in the setting aside application. The focus of its challenge has now been narrowed to the setting aside application itself. Tata therefore clarifies that it is no longer actively pursuing OA 13 as a standalone matter – instead, its position is that OA 13 should simply follow and be granted with costs if the court sets aside the Quantum Award on the apparent bias ground.[62] Third, Tata raises a number of fresh objections in respect of its apparent bias challenge. In addition to some of Tata's existing objections set out at [23] above, Tata now further submits that Mr Isaacs KC failed to disclose his appointment as sole arbitrator in a March 2024 LCIA arbitration where Omni Bridgeway Fund 5 – the entity that funded Kleros in the Arbitration – was the claimant. In addition, Prof Boo is said to have failed to disclose his appointment in a February 2022 ICSID arbitration involving an Omni Bridgeway-funded party. Further, while OA 13 had relied on Prof Boo and Mr Hughes' shared adjunct professorship at the National University of Singapore as evidence of their connection, the setting aside application now places greater emphasis on the depth of their personal and professional friendship at The Arbitration Chambers and Fountain Court Chambers, and on the significance of Mr Hughes' specific role on Omni Bridgeway's Investment Committee – which reviews claim merits and must approve funding agreements before execution.[63] Finally, Tata points to a LinkedIn post published by Mr Hughes, in which Tata alleges Mr Hughes had publicly declared his personal and professional

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61 Applicant's Written Submissions dated 26 January 2026 ("AWS") at para 2.

62 AWS at paras 134–142.

63 AWS at paras 134–142.

friendship with Prof Boo upon Mr Hughes' departure from The Arbitration Chambers in September 2022.[64]

The Tribunal's findings

31 At this juncture and before going any further, it is important to set out in greater detail the Tribunal's findings in the Liability Award and Quantum Award. This will provide the background for our discussion below on whether the Majority did (or did not) decide the Causation Issue, Remoteness Issue and Mitigation Issue.

32 It is important to recall that the NDAs placed the following obligations on Tata. Clause 3.3 of the 2014 NDA restricted Tata to using the confidential information (as defined in the NDAs) solely for the purpose of evaluating a potential business transaction with Kleros, and prohibited Tata from disclosing the confidential information except in accordance with the terms of the 2014 NDA or with prior written authorisation. Clause 19 of the 2014 NDA went further – it prohibited Tata from exploiting any aspect of the confidential information in a manner that circumvented Kleros's economic interest. Beyond these express provisions, the Tribunal also found that Recital B to the NDAs gave rise to a contractual duty of "mutual trust and confidence", requiring that each party "rely on the other in safekeeping each [other's] interests as they explore possible future engagement in the [p]roject" and to "act in good faith vis-à-vis the other as understood in English law".[65] English law was the express choice of law in both NDAs.[66]

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64 AWS at para 142(b). 14CBD534.

65 Liability Award at para 74 (found in WS–SS for OA 24/25 at Exhibit SS–8).

66 2013 NDA at clause 10 (found in WS–SS for OA 24/25 at Exhibit SS–6). 2014 NDA at clause 10 (found in WS–SS for OA 24/25 at Exhibit SS–7).

33 In the Liability Award, the Tribunal found that Tata had not breached its obligations under clauses 3.1 and 3.2 of the NDAs to safeguard and restrict disclosure of the confidential information, given that Tata had put into place further non-disclosure agreements when entering into discussions with other entities in connection with the project.[67] Nonetheless, the Tribunal identified three categories of breaches of the NDAs by Tata. The first was that Tata misused the confidential information to advance the project without Kleros and with the intention of excluding Kleros. Tata's conduct was found to be in breach of clauses 3.3 and 20 of the 2013 NDA, clauses 3.3 and 19 of the 2014 NDA, as well as Tata's contractual duty of good faith and confidence arising from Recital B to the NDAs.[68] The second was that Tata made false statements to Kleros in breach of that same contractual duty.[69] The third was that Tata concealed from Kleros its intention to exclude and supplant Kleros in the Project, again in breach of clauses 3.3 and 20 of the 2013 NDA, clauses 3.3 and 19 of the 2014 NDA, and the duty of good faith and confidence under Recital B.[70]

34 These findings of breaches on Tata's part rested on a series of underlying factual findings. First, findings that Tata excluded Kleros from its discussions and dealings with third parties, encompassing and including Tata drawing on Kleros's local connections to secure site visits and meetings with Kamchatka

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67 Liability Award at paras 337 and 341 (found in WS–SS for OA 24/25 at Exhibit SS–8).

68 Liability Award at paras 427, 433–434 and Section XII(18), p 164 (found in WS–SS for OA 24/25 at Exhibit SS–8).

69 Liability Award at paras 443–445 and Section XII(19), p 164 (found in WS–SS for OA 24/25 at Exhibit SS–8).

70 Liability Award at paras 448–451 and Section XII(20), p 165 (found in WS–SS for OA 24/25 at Exhibit SS–8).

government officials and local municipality personnel,[71] feasibility studies conducted with parties like Geosolutions LLC, ROSMORPORT and KPMG,[72] non-disclosure agreements concluded with parties like Sistema JSFC, RDIF, Sberbank and FondVostok to exploit the confidential information without Kleros's prior consent,[73] and meetings with the Far East Development Ministry from which Kleros was excluded – including by Tata misleading Kleros into believing that a number of meetings held in Mumbai in October 2015 were for unrelated purposes.[74] Second, findings that Tata intended to remove Kleros from the Project entirely, as evidenced by a memorandum of understanding with the RDIF dated 11 December 2014, pursuant to which Tata continued to deal with the RDIF with a view to making it the joint venture partner to the exclusion of Kleros, and Tata's dealings with Sistema in the knowledge that Sistema sought to exclude Kleros.[75] Third, findings that Tata took active steps to prevent Kleros from participating in the project – in this regard, Tata worked with Russian officials to secure a direct allocation of the mining licence to Tata and, when that proved unsuccessful, Tata engineered repeated postponements of the auction while ensuring no competing bidder would participate.[76] Cutting across all three categories, the Tribunal also found that Tata made misleading representations to Kleros in breach of its duty of good faith, causing Kleros to believe no confidential information had been shared with third parties. Tata also

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71 Liability Award at para 353 (found in WS–SS for OA 24/25 at Exhibit SS–8).

72 Liability Award at para 360 (found in WS–SS for OA 24/25 at Exhibit SS–8).

73 Liability Award at Section XII(16), pp 163–164 and paras 367–369 (found in WS–SS for OA 24/25 at Exhibit SS–8).

74 Liability Award at Section XII(17), p 164 and paras 382–386 (found in WS–SS for OA 24/25 at Exhibit SS–8).

75 Liability Award at paras 418–420, 397–398, 357, 360, 367–369 and 382–386 (found in WS–SS for OA 24/25 at Exhibit SS–8).

76 Liability Award at paras 418–420 (found in WS–SS for OA 24/25 at Exhibit SS–8).

concealed its intention to exclude and replace Kleros as principal and investor, incorporated FENR to bid for the mining licence without disclosing this to Kleros and used its arrangements with RDIF as part of a broader plan to substitute RDIF for Kleros.

35 Finally, in the Liability Award, the Tribunal directed that the Arbitration would continue to the determination of the outstanding issues of causation, loss and damage, and appropriate relief, with all questions of costs reserved for later determination.

36 On 29 November 2023, after reviewing the parties' respective proposed versions of the Memorandum of Issues in respect of the second phase of the Arbitration, the Tribunal concluded that both parties' versions were not materially different. The Tribunal adopted Kleros's shorter version but with minor amendments of its own, and issued the Memorandum of Issues (Quantum). The Tribunal identified the key remaining issues to be determined as: (*a*) whether the breaches of the NDAs by Tata caused Kleros to suffer loss and damage in the form of a loss of opportunity to invest and/or participate in the Project as an investor and shareholder (or at all) by itself or with third parties (other than Tata) on terms materially similar to those Kleros had offered to Tata and to profit from the same (if established); (*b*) if so, to quantify Kleros's loss and damage by such means as the Tribunal thinks appropriate, including a valuation of the project, the likely participation level of Kleros and the chance that Kleros would successfully have participated in the project; and (*c*) alternatively, to assess damages by reference to the amount which would have

been agreed in a hypothetical negotiation between reasonable parties as the price for releasing Tata from its obligations under the NDAs.[77]

37 In the Quantum Award, the Majority held that Tata's breaches of the NDAs, in particular its breaches of the confidentiality and non-circumvention obligations, had caused Kleros to suffer loss and damage in the form of a lost opportunity to invest and/or participate in the project as an investor and shareholder, whether alone or with third parties other than Tata, on terms materially similar to those Kleros had offered to Tata, and to profit therefrom.[78] The Majority's other key findings were as follows:

(a) Tata's breaches deprived Kleros of a real and substantial chance of successfully exploiting the Deposit, whether independently or together with a third party.[79]

(b) The project was to be valued objectively as at the date of Tata's breach in 2016, on the basis of expert valuations, at US$1,021,500,000.[80]

(c) Kleros's loss of chance was fixed at 60%, reflecting the Majority's view that, but for Tata's breaches, Kleros had an equal prospect of proceeding with the project either on its own

77 Email from the Tribunal to the Parties dated 29 November 2023 (found in Exhibit IS–1 at TAB 68). Email from the Tribunal to the Parties dated 29 November 2023, enclosing Memorandum of Issues (Quantum Phase) (found in WS–SS for OA 24/25 at Exhibit SS–66).

78 WS–SS for OA 24/25 at para 63. Quantum Award at para 310 (found in Exhibit SS–1). Quantum Award at Section VI, pp 196–197 (found in Exhibit SS–1). Quantum Award at Section VII, p 198 (found in Exhibit SS–1).

79 Quantum Award at para 176 (found in Exhibit SS–1).

80 Quantum Award at paras 404–407 (found in Exhibit SS–1). Quantum Award at paras 481–483 (found in Exhibit SS–1). Quantum Award at Section VII, p 198 (found in Exhibit SS–1).

with pure off-take partners or alongside other joint equity partners.[81]

(d) Tata was ordered to pay Kleros damages for the lost opportunity to invest in the Project in the sum of US$490,320,000. This figure represented the average of two scenarios: (i) US$612,900,000, being the value of the chance had Kleros developed the Project independently with pure off-take partners; and (ii) US$367,740,000, being the value of the chance had Kleros held a 60% equity stake alongside a minority equity partner holding the remaining 40%.[82]

(e) Tata was ordered to bear its own legal costs and to pay Kleros's legal costs and expenses in the amount of S$8,289,020.64.[83] Further, simple interest at the rate of 5.33% per annum was awarded on: (i) the damages awarded of US$490,320,000, running from 30 November 2020 until full and final payment; and (ii) the costs awarded of S$8,289,020.64, running from the date of the Quantum Award until full and final payment.[84]

38 The Minority came to a different view on damages. In the Dissent, the Minority found that Tata's breaches of the NDAs did not deprive Kleros of the chance to bid for the mining licence or to pursue the project. Instead, the

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81 Quantum Award at paras 481–482 (found in Exhibit SS–1).

82 Quantum Award at para 483 (found in Exhibit SS–1). Quantum Award at paras 481–483 (found in Exhibit SS–1). Quantum Award at Section VII, p 198 (found in Exhibit SS–1).

83 Quantum Award at para 553 (found in Exhibit SS–1).

84 Quantum Award at para 310 (found in Exhibit SS–1). Quantum Award at Section VI, pp 196–197 (found in Exhibit SS–1). Quantum Award at Section VII, p 198 (found in Exhibit SS–1).

Minority was prepared to award Kleros negotiating damages – representing the sum Kleros could have extracted to release Tata from its obligations under the NDAs – which the Minority assessed to be the sum of US$13,500,000, together with simple interest at 5.33% per annum from 30 November 2020 until full and final payment. As for costs, the Minority was of the view that each party should bear its own costs of the Quantum Phase.[85]

39 In respect of the Final Award, the Majority's orders were as follows:

(a) that Tata pay all the expenses of the Arbitration as finally determined by the SIAC (including the Tribunal's costs), amounting to S$2,954,788.29, and to reimburse Kleros for the deposits paid by it towards the arbitration costs, less any refunds from the SIAC;[86]

(b) that simple interest at 5.33% per annum be awarded on the total reimbursable sum of S$2,688,429.10, with interest running separately on: (i) S$1,769,379.50, being Kleros's own share of the deposits, from the date of the Quantum Award (*ie*, 1 July 2025) until full and final payment; and (ii) S$919,049.60, being the amount Kleros paid on Tata's behalf after Tata did not contribute to the deposits, from the date of that payment (*ie*, 26 February 2024) until full and final payment;[87]

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85 WS–SS for OA 24/25 at paras 63–64. Quantum Award at paras 481–483 (found in Exhibit SS–1). Quantum Award at Section VII, p 198 (found in Exhibit SS–1). Dissenting Opinion at paras 20–102 at Annex B of the Quantum Award (found in Exhibit SS–1). Dissenting Opinion at paras 168–169 at Annex B of the Quantum Award (found in Exhibit SS–1). Dissenting Opinion at para 182 at Annex B of the Quantum Award (found in Exhibit SS–1).

86 Final Award at para 36 (found in WS–SS for OA 24/25 at Exhibit SS–5).

87 Final Award at paras 38 and 40 (found in WS–SS for OA 24/25 at Exhibit SS–5).

(c) that Tata be further ordered to pay the additional legal costs and expenses incurred by Kleros after the close of proceedings, amounting to S$98,154.39, together with simple interest at 5.33% per annum, running on: (i) S$91,154.39 from the date of the Quantum Award (*ie*, 1 July 2025) until full and final payment; and (ii) S$7,000 from the date of the Final Award (*ie*, 27 August 2025) until full and final payment.

The parties' additional submissions on the case of Indus Powertech

40 The hearing of the applications took place before us from 16–18 March 2026, following which we reserved judgment. On 10 May 2026, counsel for Tata wrote to the court to draw our attention to a recent judgment of the English High Court in *Indus Powertech Inc v Echjay Industries Private Limited* [2026] EWHC 827 (Comm) ("*Indus Powertech*"), which was handed down on 10 April 2026. Tata submitted that the decision was relevant to the issues arising in the three applications, and sought permission to address the court on it. We granted the parties permission, pursuant to which, the parties tendered further written submissions on 28 May 2026 on the relevance of *Indus Powertech* to the present proceedings. We address *Indus Powertech* below (at [46]).

Issues to be determined

41 Based on our summary above of the factual and procedural background to this case, the following key issues arise for our determination:

(a) Whether the Tribunal (or specifically, the Majority) breached the rules of natural justice and/or the agreed arbitral procedure by completely failing to decide the issues of causation, remoteness and mitigation, respectively; and

(b) Whether there was apparent bias in respect of Prof Boo's and Mr Isaacs KC's appointments and their conduct of the Arbitration.

Whether the Tribunal failed to decide the issues of causation, remoteness and mitigation

42 Section 24(*b*) of the IAA sets out the power of this court to set aside an arbitration award where a breach of the rules of natural justice occurs in connection with the making of that award. To succeed, an applicant must establish (a) which rule of natural justice was breached; (b) how it was breached; (c) the connection between the breach and the making of the award; and (d) the prejudice caused to the challenging party's rights (*CDI v CDJ* [2020] 5 SLR 484 ("*CDI v CDJ*") at [29], citing *Soh Beng Tee & Co Pte Ltd v Fairmount Development Pte Ltd* [2007] 3 SLR(R) 86 ("*Soh Beng Tee*") at [29]). An applicant mounting a challenge under s 24(*b*) of the IAA faces a high threshold because our courts adopt a policy of minimal curial intervention. Consistent with this policy, the courts will read arbitral awards generously and supportively, and will intervene only in exceptional cases where a breach of natural justice is established (*CDI v CDJ* at [30]–[31]). In the context of an *infra petita* complaint, the applicant must show that the tribunal failed to consider or determine an essential issue that was submitted for decision, rather than merely giving inadequate reasons or reaching an incorrect conclusion. Ultimately, the court's inquiry is directed to whether the arbitral process was conducted fairly and whether the tribunal's conduct fell outside the range of what a reasonable and fair-minded tribunal could have done, causing prejudice to the applicant in the making of the award (*CDI v CDJ* at [30]–[31]).

43 Tata, in its submissions, invokes the well-established principle of natural justice that every party is entitled to a fair hearing and a fair opportunity to present its case. This entails, at the minimum, that the tribunal turns its mind to

the arguments and issues raised by the parties – otherwise, it is a breach of natural justice for the tribunal to have not brought its mind to bear on an important aspect of the dispute before it (*Soh Beng Tee* at [43]; *AKN v ALC* [2015] 3 SLR 488 ("*AKN v ALC*") at [46]). A tribunal that neglects to do so drains the fair hearing principle of any real content. In *BRS v BRQ* [2021] 1 SLR 390 ("*BRS v BRQ*") at [90] and [97]–[108], the Court of Appeal recognised this as a necessary corollary of the parties' general right to be heard on every issue potentially relevant to the resolution of their dispute. Where a breach is alleged on this basis, the applicant must point to a "clear and virtually inescapable" inference that the tribunal failed to apply its mind to the argument in question (*AKN v ALC* at [46]). No breach of natural justice should be found where the facts are equally consistent with the tribunal having misunderstood the case, erred in law, or considered the point unnecessary to address. The threshold is a high one, because a tribunal's omission is ordinarily inferred rather than expressly demonstrated. As *DKT v DKU* [2025] 1 SLR 806 makes clear at [8], the tribunal must have *completely* failed to consider the point:

> In our judgment, a successful *infra petita* challenge can only be mounted if *all* of the following four conditions are satisfied:
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> …
>
> (c) Third, the tribunal must have ***completely*** failed to consider the point. Assessing whether the tribunal completely overlooked an essential point will typically be a matter of inference, and if such an inference is to be drawn at all, it must be shown to be clear and virtually inescapable (see *AKN and another v ALC and another and other appeals* [2015] 3 SLR 488 ("*AKN*") at [46] and *BZW and another v BZV* [2022] 1 SLR 1080 ("*BZW*") at [60(a)]). In making such inferences, our courts adopt a "generous approach", avoiding a hypercritical or excessively syntactical analysis of the award (see *BLC and others v BLB and another* [2014] 4 SLR 79 at [86]). Any doubt in this regard will be resolved in favour of upholding the award in accordance with the principle of minimal curial intervention (see *Palm Grove* at [71]). We emphasise again that the focus here is not on how well or accurately the tribunal understood, analysed and dealt with the point; but with whether it did in

> fact consider the point ***at all*** (however incompetently or incorrectly it may be said to have done so). Earlier suggestions that a tribunal's failure to understand an argument may amount to a breach of natural justice (see *Front Row Investment Holdings (Singapore) Pte Ltd v Daimler South East Asia Pte Ltd* [2010] SGHC 80 at [31] and [37]) were doubted and clarified in *AKN* at [47], where we made clear that a tribunal's "failure to comprehend [an] argument and so to appreciate its merits" is not a breach of natural justice. Otherwise, the courts will be inundated with challenges seeking to relitigate matters already decided in arbitration on the ground that the tribunal did not fully appreciate its argument or the evidence. ***It is not enough for the applicant to demonstrate that the tribunal's consideration of the matter was somehow lacking; it will have to show that the tribunal completely failed to even consider an essential issue***. The inquiry is not directed at the adequacy of the tribunal's analysis, but with the existence and fact of such analysis. The only qualification to this would be in the truly exceptional circumstance where the tribunal's purported analysis is so woefully incomplete and cursory that it leads to the clear and virtually inescapable inference that the tribunal had in fact completely failed to consider the issue (*AKN* at [44]–[46]). However, for the avoidance of doubt, ***the threshold for such a finding will be a high one, for, if it were otherwise, errors of law or fact would impermissibly be made a ground for setting aside an arbitral award under the guise of a "natural justice" challenge*** (see *Palm Grove* at [24] and [48]; see also *India Glycols Ltd and another v Texan Minerals and Chemicals LLC* [2025] SGHC 28 at [34]).
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> [emphasis in original omitted; emphasis added in bold and italics]

44 It is with these broad principles in mind that we now discuss each of the issues in turn.

The Causation Issue

45 The first question is whether the Tribunal determined, or completely failed to determine, the issue of causation as an essential issue – and in particular, whether it made any finding as to "but-for" causation. This is, in essence, a counterfactual inquiry: the "but-for" causation test requires a claimant to establish that but for the defendant's breach, the claimed loss would

not have occurred. Applied here, the question is whether the Quantum Award contains any indication that the Majority did consider and determine what Kleros would have done, and whether it would have suffered the loss of chance it alleges, in the absence of Tata's breaches of the NDAs – in the hearing before us, this was referred to as the "No Breach Scenario".[88] In order to answer this question, it is therefore necessary for us to consider whether the Tribunal made findings on the Causation Issue, either expressly or by necessary implication, bearing in mind how the parties presented their arguments on the issue in the Arbitration, and whether any such findings are capable of constituting a determination of causation sufficient to dispose of the parties' competing cases on that issue.

46 Before we delve further into the Causation Issue, we first turn to consider the relevance of *Indus Powertech* (see above at [40]). In *Indus Powertech*, the English High Court found that a tribunal had failed to address two essential sub-issues on causation – referred to as the "capacity" issue and "lead time" issue – and remitted those issues to the tribunal. Tata submits that the court in *Indus Powertech* explained what constitutes an "issue" that a tribunal must decide: namely, that it is a question which fairness demands be addressed, on which the whole or a substantial part of the claim depends, and which would appear in a properly drawn up and appropriately (but not excessively) granular list of issues, even if it had not been formally pleaded. Tata further submits that it must be made apparent to the parties that the issue

88 Respondent's Written Submissions dated 16 February 2026 ("RWS") at para 27. Applicant's Reply Written Submissions for SIC/OA 24/2025 and SIC/OA 25/2025 dated 9 March 2026 ("ARWS") at para 19. Transcript of 16 March 2026 at p 4 ln 4–10.

had been determined and it cannot be inferred that a tribunal rejected a point merely because it did not refer to it.[89]

47 Applying *Indus Powertech* to the present case, Tata submits that the agreed "but-for" test and agreed No Breach Scenario counterfactual were essential issues the Majority had to address, that the whole of Kleros's loss of chance claim depended on them, and that the Majority's failure to apply its mind to these issues went to the heart of the decision-making process.[90] In a similar vein, Tata submits that the same principles espoused in *Indus Powertech* apply equally to the issues of remoteness and mitigation.[91] Finally, on remission, Tata argues that unlike English law, under which remission is mandatory unless inappropriate, Singapore law confers a broader discretion on the court, and that for the reasons already set out in its reply submissions, remission would be wholly inappropriate in this case.[92]

48 In response, Kleros submits that *Indus Powertech* provides no support for Tata's case, for three reasons. First, *Indus Powertech* establishes no new law and is simply an application of well-settled English arbitration principles to specific facts.[93] Second, the threshold in Singapore is stricter than under English law: under Singapore law, an applicant must show a "clear and virtually inescapable inference" that the tribunal "did not apply its mind at all" to an

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89 Applicant's Supplemental Written Submissions in SIC/OA 13/2025, SIC/OA 24/2025 and SIC/OA 25/2025 dated 28 May 2026 ("ASWS") at para 4.

90 ASWS at para 6.

91 ASWS at para 9.

92 ASWS at para 10.

93 Respondent's Supplemental Written Submissions in SIC/OA 13/2025, SIC/OA 24/2025 and SIC/OA 25/2025 dated 28 May 2026 ("RSWS") at paras 8–11.

essential issue, a requirement not discussed in *Indus Powertech*.[94] Third, the facts in the present case can be distinguished on the basis that unlike in *Indus Powertech*, the Majority here did engage with causation and its sub-issues, and any errors in that analysis are, at best, errors of law rather than a failure to deal with an issue. Further, there was no agreement of the parties that bound the Tribunal to a specific counterfactual.[95] Accordingly, Kleros submits that *Indus Powertech* has no impact on this case and does not help Tata.

49 Having considered the parties' submissions on the issue, we are of the view that *Indus Powertech* lends little, if any, additional weight to our existing analysis on the issues before us – nor does it add anything to our existing jurisprudence on *infra petita* challenges. For example, in *Indus Powertech* at [58] and [59], the English court summarised the approach the court should take in deciding whether or not a tribunal should be given the benefit of the doubt as to whether it can be said to have failed to decide an issue, in the following terms:

> 58. Turning to the extent to which a tribunal should be given the benefit of the doubt when deciding whether it can be said to have failed to deal with an issue, I suggest that, on the one hand:
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> 58.1. the right approach is to read the award in a fair, commercial and commonsense (not hypercritical or excessively syntactical) way, expecting that no substantial fault will be found with it and hence that all of the issues will have been dealt with (*Petrochemical Industries* at [27(iv)] and *Raytheon* at [33(g)(xii)]);
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> 58.2. the Court must be very careful not to be hypercritical in determining whether the issue has been dealt with by the arbitrators (*RAV* at [44]);
>
> 58.3. the focus of the enquiry under s.68 is due process and not the correctness of the Tribunal's decision (*Raytheon* at [33(d)]);

94 RSWS at para 11.

95 RSWS at paras 12–16.

> 58.4. if the tribunal has dealt with the issue in any way, that is the end of the enquiry. It does not matter that the tribunal has dealt with it well, badly or indifferently (Raytheon at [33(g)(vi)]). The fact that the reasoning is wrong, or involves the tribunal misdirecting themselves on the facts is not a failure to deal with the issue (*Raytheon* at [33(g)(ix)]);
>
> 58.5. the award should not be interpreted in a vacuum, but by taking into account the way in which the issues were presented in the parties' submissions (*Petrochemical Industries* at [27(v)] and *Raytheon* at [33(g)(xii)]);
>
> 58.6. a failure to provide reasons is not the same as failing to deal with an issue (*Raytheon* at [33(g)(viii)]);
>
> 58.7. issues do not need to be dealt with one by one; they can be dealt with in a composite or compendious way. It is up to the tribunal to decide how to structure the disposal of the dispute referred to it (*Petrochemical Industries* at [27(iii) and (v)]).
>
> 59. On the other hand:
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> 59.1. it needs to be made apparent to the parties that the issue has indeed been determined. The parties should not be left to guess whether it has been dealt with or overlooked. They should not be required to speculate about what was in the tribunal's heart (*Buyuk Camlica* at [38]); and
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> 59.2. while it could always be said of an issue which would impact the relief granted, that the tribunal 'must' have rejected party x's argument, given the relief that has ultimately been awarded to party y, something more is required before that inference can be drawn, even if the award contains references to the parties' arguments (*Czech Republic* at [192]-[193]).

50 The approach as summarised above is neither new nor particularly controversial even under Singapore law, but it does provide a useful *aide memoire*; of greater importance is how that approach is applied to the particular facts of any case. Our decision in these proceedings is concerned with what constituted essential issues before a tribunal, and Tata's case in this regard rests on the premise that the No Breach Scenario (as defined above at [45]) was the agreed counterfactual that bound the Tribunal in terms of deciding causation using the "but-for" test. Similarly, in respect of the Remoteness Issue and the Mitigation Issue, Tata's case rests on the premise that the parties had agreed on

them as issues to be determined, and that the Tribunal had also failed to decide these essential issues. Whether Tata's case stands up to scrutiny is a fact specific exercise, on which *Indus Powertech* does not cast any useful light as it was a case decided on its specific facts.

51 As we explain in greater detail below, even proceeding on the assumption that causation, remoteness and mitigation were all essential issues that required determination by the Tribunal, the evidence does not bear out a failure by the Majority to decide them. To the contrary, the Quantum Award contains numerous and sufficient references demonstrating that the Majority did turn its mind to each of these issues and determined them. As we also explain below, on the Causation Issue, we are unpersuaded that the parties ever arrived at any agreement as to the population of the counterfactual and what the Tribunal could or could not consider in that counterfactual world when determining the issue of causation. For these reasons, *Indus Powertech* does not add much to the discussion or bear materially on our decision.

52 Before we turn to the substantive question of whether the Tribunal failed to determine the issue of causation, an important preliminary issue arises as to whether Tata has, through its written submissions, sought to advance a new ground of challenge that was not raised in its originating application or supporting witness statements. In this regard, counsel for Kleros, Mr Toby Landau KC ("Mr Landau KC"), submits that the No Breach Scenario was introduced by Tata for the first time in its written submissions.[96] Kleros argues that Tata's original ground, summarised above at [27], has undergone a "complete makeover" and is therefore time-barred.[97]

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96 RWS at para 28. Transcript of 18 March 2026 at p 73 ln 9–12 and p 77 ln 11–20.

97 RWS at paras 17–23.

53 Mr Davinder Singh SC ("Mr Singh SC"), counsel for Tata in relation to the fair hearing issues, contends that this submission is baseless, noting that Tata had consistently submitted that the causation analysis required consideration of a counterfactual world in which there were no breaches, as this was necessary to determine whether the breaches had in fact caused Kleros's loss.[98] Tata further points out that Kleros's own submissions describe Tata's counterfactual in the Arbitration as one that assumes Tata did not breach the NDAs, which is precisely the No Breach Scenario, thereby undermining Kleros's own contention.[99]

54 Tata further submits that Kleros's time-bar objection is a mischaracterisation of Mr Shantanu Singh's witness statement. While Kleros relies on paras 76 to 103 of that statement to argue that Tata's complaint is about the Majority's failure to consider Tata's breaches in the pre-March 2016 period (*ie*, the period between the parties' entry into the 2013 NDA in September 2013 and the date of the last meeting between the parties in March 2016), it does not engage with paras 68 to 72, which make clear that Tata's complaint has always been about the Majority's failure to apply its mind to the essential issue of causation and, in particular, their failure to consider the agreed counterfactual in which Tata did not commit any breaches – *ie*, the No Breach Scenario. As Mr Shantanu Singh explained at para 80 of his witness statement, the Majority's analysis of causation was conducted entirely within a breach scenario,

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98 Transcript of 16 March 2026 at p 45 ln 6–p 50 ln 19.

99 ARWS at para 10. Tata's Quantum Opening Statement dated 6 October 2023 ("Tata's Opening Statement") at para 31 (found in 12CBD109). Tata's Opening Statement at para 37. Tata's Quantum Closing Statement dated 15 December 2023 ("Tata's Closing Statement") at paras 3(b) and 8 (found in 12CBD291 and 12CBD/96).

disregarding the counterfactual altogether. As there is no change of case, Tata submits that the time-bar objection is a non-starter.[100]

55 Having regard to all of the above, we are of the view that the case advanced by Tata in its written submissions – that the Tribunal failed to determine the No Breach Scenario counterfactual, or indeed any counterfactual at all – does amount to a new and distinct ground of challenge that was not raised or articulated in OA 24 or the supporting witness statement. In substance, the complaint advanced by Tata in its written submissions is that the Majority failed to undertake the causation analysis by reference to a particular counterfactual said to have been agreed between the parties *ie*, the No Breach Scenario. That complaint is, in our view, materially different from the grounds originally identified in Tata's supporting witness statement.

56 On an examination of Mr Shantanu Singh's witness statement, and in particular paras 70 to 95 thereof, the thrust of Tata's case on causation was that the Majority failed to have regard to events before March 2016 and from 2013, and further failed to conduct a "breach-by-breach analysis" – that is, to analyse how each breach as identified in the Liability Award caused Kleros's loss. Instead, the Tribunal is said to have glossed over the individual breaches and adopted a broad-brush approach. There is nothing in the witness statement that remotely suggests that one of Tata's major complaints, if not its biggest complaint in these proceedings, was that the Majority failed to decide "but-for" causation on the basis of an agreed counterfactual.

57 In *BTN v BTP* [2022] 4 SLR 683 ("*BTN v BTP*"), the High Court observed that the originating application and/or supporting affidavit in an

100 ARWS at paras 11 and 17–18. WS–SS for OA 24/25 at paras 76–103 (found in 7CBD/220). WS–SS for OA 24/25 at paras 68–72 (found in 7CBD/217).

application to set aside an award should compendiously set out all the grounds of challenge that the applicant intends to pursue – failing which, the respondent may be taken by surprise and deprived of a fair opportunity to respond (at [61]–[63]). There, a preliminary dispute arose as to whether the plaintiffs were entitled to rely on an issue that had not been articulated in the affidavit originally filed in support of their setting aside application, but was instead introduced through a second affidavit filed over a year later. In the present case, we are satisfied that Tata has, through its submissions, advanced an entirely new basis for challenging the Quantum Award.[101]

58 The difficulty for Tata is that the supporting witness statement of Mr Shantanu Singh contains nothing that foreshadows the case now sought to be advanced by Tata on the Causation Issue. Apart from a vague reference at para 71(d) of the witness statement of Mr Shantanu Singh (repeated at para 71(e)) to the need for the Tribunal to consider "the correct counterfactual",[102] the witness statement is otherwise silent on the matters that now form the centrepiece of Tata's submissions. For example, it does not identify what the alleged "correct counterfactual" was, nor does it assert that any such counterfactual had been agreed between the parties, and where that agreement could be found. It further fails to explain how, or in what respect, the Tribunal purportedly failed to determine causation by reference to that agreed counterfactual. Most significantly, it does not articulate the core of the complaint now advanced – that the Tribunal failed to decide the issue of causation because it failed to determine the No Breach Scenario counterfactual.

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101 RWS at paras 17, 19 and 22.

102 WS–SS for OA 24/25 at para 71(d).

59 Indeed, the paucity of any reliance by Tata on the alleged failure of the Tribunal to decide the Causation Issue on the basis of an allegedly agreed No Breach Scenario is underscored by the fact that a review of Mr Shantanu Singh's witness statement reveals that the word "counterfactual" appears only twice, namely, in paras 71(d) and 71(e). In our view, those isolated references, bereft of any accompanying explanation or elaboration, are insufficient to put either Kleros or the court on notice that Tata intended to advance a challenge of the nature now pursued in its submissions. A party cannot, by reliance on a passing, obtuse and undeveloped reference in a witness statement, reserve to itself the ability subsequently to formulate and advance a substantially different ground of challenge. To permit such an approach would undermine the requirement that the grounds of challenge be clearly and properly articulated within the applicable time limits. The witness statements served with the originating summons must reasonably contain all the facts, evidence and grounds relied upon in support of the application to set aside an award, with sufficient particularity, so that the defendant is properly apprised of the case being mounted against it and can put forth its opposition accordingly if it wishes to (*BTN v BTP* at [62]). Notwithstanding the common practice for a plaintiff to file further reply affidavits, this does not permit a plaintiff to advance new grounds by introducing facts and circumstances that could and should have been raised at the outset – such conduct would spring a surprise on the defendant, prolong proceedings and potentially encourage the abuse of process (*BTN v BTP* at [63]). Accordingly, we find that the ground now advanced by Tata regarding the Majority's alleged failure to decide the issue of causation was not contained in OA 24 or the witness statement supporting it, and is accordingly time-barred. That would be sufficient to dispose of Tata's objections on the Causation Issue in so far as it turned on the Majority's alleged failure to decide the Causation Issue on the basis of the No Breach Scenario.

60 However, we do not rest on this conclusion alone. Assuming that we are wrong on the time-bar issue, we have considered Tata's substantive submissions on the Causation Issue and conclude that they are without merit in any event. We elaborate on our reasons below, and address Tata's grounds both as originally framed in Mr Shantanu Singh's witness statement and as advanced in Tata's written submissions.

61 Tata's case is that the Majority abdicated their duty to analyse and failed to apply its mind to the essential issue of causation in the Quantum Award.[103] Tata advances three principal complaints in this regard. First, that the Majority's causation analysis was improperly coloured by the unanimous findings from the Liability Award, rather than conducted afresh.[104] Second, that the Majority completely failed to consider whether Tata's breaches in the pre-March 2016 period caused Kleros to lose any alleged opportunity during that period.[105] Third, that the Majority made a new finding of reputational harm by Tata not found in the Liability Award, and linked that finding to Kleros's inability to find third parties to exploit the project during the nine-month window of opportunity from March to November 2016.[106] Tata further argues that the Majority ought not to have adopted a broad-brush approach to causation, and should instead have conducted a breach-by-breach analysis, identifying each act of breach and tying it to how that breach may have caused Kleros loss.[107]

103 WS–SS for OA 24/25 at paras 67–68, 72–73 and 87. Transcript of 16 March 2026 at p 44.

104 WS–SS for OA 24/25 at paras 72–75 and 87.

105 WS–SS for OA 24/25 at paras 76–103. Liability Award at paras 291–295 and 464 (found in WS–SS for OA 24/25 at Exhibit SS–8).

106 WS–SS for OA 24/25 at paras 99–104.

107 WS–SS for OA 24/25 at paras 87 and 94.

62 Kleros disputes each of these complaints. As to the first, Kleros submits that the Majority undertook a comprehensive causation analysis spanning 22 pages of the Quantum Award, considering all of the parties' submissions. While the Majority did rely on certain unanimous factual findings from the Liability Award, it expressly acknowledged that those findings did not establish causation *ipso facto*, but rather, provided the background against which causation was to be determined in the Quantum Award phase. Kleros further notes that the parties and the Tribunal had always expected the factual findings from the Liability Award to remain relevant to the Quantum Award phase – indeed, the Tribunal had described the Arbitration as one where "parties work as if it is one single arbitration", a characterisation Tata never challenged and expressly endorsed in its email of 29 April 2023.[108] To require the Tribunal to consider those facts afresh would be illogical, highly inefficient, and would render the Liability Award meaningless. Kleros also observes that Tata itself relied on findings from the Liability Award in its closing statements for the Quantum Award phase, and that its attempts to challenge those findings were in substance attempts to re-litigate matters already decided against it.[109]

63 On Tata's complaint of a lack of a "breach-by-breach" analysis by the Majority, Kleros points to para 192 of the Quantum Award, in which the Majority expressly found that but for Tata's breaches, Kleros would have made efforts to develop the project with a third party. In reaching that conclusion, the Majority at para 186 of the Quantum Award accepted Mr Skulason's evidence that Kleros had chosen to do business with Tata on the assumption that Tata would not breach its obligations under the NDAs, and that Kleros had exhausted all reasonable attempts to salvage a possible investment partnership with Tata.

108 IS–WS for OA 24/25 at paras 130–131.

109 IS–WS for OA 24/25 at para 132.

It was those efforts by Tata, the Majority found, that caused Kleros's loss of chance. Those efforts had been unanimously found in the Liability Award to constitute contractual breaches, including Tata's failure during the pre-March 2016 period to disclose to Kleros that it intended to exclude and supplant it – a finding specifically referenced by the Majority in its causation analysis at para 177(6) of the Quantum Award.[110]

Analysis and decision

64 As a starting point, we note that neither party *specifically* set out "but-for" causation as an issue in their respective versions of the Memorandum of Issues. On 13 November 2023, Kleros submitted to the Tribunal its version of the remaining issues to be addressed in the Quantum Award phase as follows:[111]

> For the purpose of ensuring a final resolution of the matters in dispute in this arbitration, the Tribunal has identified the principal remaining issues to be determined in this arbitration.
>
> 1. Whether the breaches of the NDAs by Tata caused Kleros to suffer loss and damage in the form of a loss of opportunity to invest and/or participate in the Project as an investor and shareholder (or at all) by itself or with third parties (other than Tata) on terms materially similar to those Kleros had offered to Tata and to profit from the same (if established).
>
> 2. If so, to ascertain the quantification of Kleros' loss and damage including a valuation of the Project, the participation level of Kleros and the chance that Kleros would successfully have participated in the Project.
>
> 3. Further or alternatively, to assess damages by reference to the amount which would have been agreed in a hypothetical negotiation between reasonable parties as the price for releasing Tata from its obligations under the NDAs.
>
> 4. To determine such interest and costs as appropriate.

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110 IS–WS for OA 24/25 at paras 137–138 and 148.

111 Email from Kleros to the Tribunal dated 13 November 2023 (found in WS–SS for OA 24/25 at Exhibit SS–81).

65 On 14 November 2023, Tata submitted its version in the following terms:[112]

> 1. Whether the breaches of the NDAs by Tata have caused Kleros to suffer loss and damage as claimed at paragraphs 191 to 201 of the ASOC.
>
> 2. If so, whether the quantum of Kleros' loss and damage should be ascertained (A) by reference to the value of Kleros' confidential information in respect of which Tata acted in breach of the NDAs, measured by reference to the amount which would have been agreed in a hypothetical negotiation between reasonable parties as the price for releasing Tata from its obligations under the NDAs (and, if so, the determination of the quantum of Kleros' loss and damage by applying that approach), or (B) by reference to any loss of opportunity suffered on the part of Kleros (by reason of Tata's breaches of the NDAs) to invest and/or participate in the Project as an investor and shareholder (or at all) by itself or with a partner (other than Tata) on terms materially similar to those Kleros had offered to Tata and to profit from the same (if established), quantifying that loss by such means as the Tribunal thinks appropriate including by means of a valuation of the Project, the likely participation level of Kleros and the chance that Kleros would successfully have participated in the Project (and, if so, the determination of the quantum of Kleros' loss and damage by applying that approach).
>
> 3. To determine interest and costs as appropriate.

66 On 17 November 2023, Kleros submitted its response to Tata's version:[113]

> Dear Members of the Tribunal,
>
> …
>
> Far from simplifying the Tribunal's job as requested, Tata has produced a convoluted and hard-to-follow version. Tata has made no attempt to amend Kleros' version and thus to produce something capable of agreement. It has also not indicated any specific respects in which Kleros' formulation is at fault. This is

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112 Email from DSK Legal to the Tribunal dated 14 November 2023 (found in WS–SS for OA 24/25 at pp 3934–3935).

113 Email from Kleros to the Tribunal dated 17 November 2023 (found in WS–IS for OA 24/25 at p 745).

> extremely unhelpful to Kleros and to the Tribunal. If Kleros' suggested revised MoI is not ordered as it stands, then Kleros respectfully requests that the Tribunal decide:
>
> (i) which Party's approach is to be preferred; and
>
> (ii) that either Tata should track the minimum necessary changes to the basic structure produced by Kleros, or vice versa.
>
> Alternatively, and as a fall-back, if the Tribunal were minded to adopt a revised version as per Tata's proposed MoI, various changes would be essential to reflect the remaining disputes between the Parties, which Tata's version seems designed to try to reduce or change. For the Tribunal's convenience, these are listed below:
>
> (i) Paragraph 1 would need to clarify that the Tribunal is working from the agreed Re-Amended SOC, including paragraphs 199A and 199B;
>
> (ii) Paragraph 2 would need to be reformulated in various respects:
>
> o (A) and (B) would need to be reversed to reflect Kleros' primary and secondary cases;
>
> o The quantification of Kleros' Negotiating Damages Claim should be amended to reflect the fact that all of Kleros' rights are being valued, not just the Confidential Information (*see* para 199B of the SOC); and
>
> o The Loss of a Chance Claim would need to clarify that the opportunity could have been with any third party and not just a "partner".
>
> With these in mind, we should be grateful if the Tribunal would make an order in respect of the remaining list of issues in this matter.

67 The Tribunal considered both parties' formulations of the remaining issues, substantially favoured Kleros's original formulation and eventually set out its own revised formulation as follows:[114]

> (1) Whether the breaches of the NDAs by Tata caused Kleros to suffer loss and damage in the form of a loss of opportunity to invest and/or participate in the Project as an investor and

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[114] Quantum Award at para 14 (found in WS–SS for OA 24/25 at Exhibit SS–1).

> shareholder (or at all) by itself or with third parties (other than Tata) on terms materially similar to those Kleros had offered to Tata and to profit from the same (if established).(2) If so, to quantify Kleros's loss and damage by such means as the Tribunal thinks appropriate, including a valuation of the Project, the likely participation level of Kleros and the chance that Kleros would successfully have participated in the Project.
>
> (3) Alternatively, to assess damages by reference to the amount which would have been agreed in a hypothetical negotiation between reasonable parties as the price for releasing Tata from its obligations under the NDAs.
>
> (4) To determine such interest and costs as appropriate.

68 Apart from the issues above, the other 22 issues had been considered and resolved in the Liability Award.[115]

69 In the Quantum Award, the Tribunal further broke down the first issue into the following three sub-issues. These were: (a) whether the loss of chance claimed by Kleros is a recognised head of damage; (b) whether, on the balance of probabilities, Kleros did lose the chance; and (c) whether Kleros was required to – and, if so, did adequately – mitigate its damages.[116] What is immediately apparent is that none of those formulations specifically identified "but-for" causation as an agreed or essential issue, nor was there any reference to any agreed counterfactual, or its precise content or parameters. The significance of this will be explained later in this judgment.

70 Be that as it may, and even assuming that Tata is not precluded from advancing its current arguments on the Causation Issue (*ie*, that the Majority failed to decide the essential issue of causation on the basis of the agreed "but-for" test and the agreed No Breach Scenario counterfactual), we are not persuaded that Tata has demonstrated any breach of natural justice. More

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115 Quantum Award at para 14 (found in WS–SS for OA 24/25 at Exhibit SS–1).

116 Quantum Award at para 16 (found in WS–SS for OA 24/25 at Exhibit SS–1).

specifically, Tata has not shown that a virtually inescapable inference arises that the Tribunal completely failed to determine the issue of causation by reference to the No Breach Scenario counterfactual said to have been agreed by the parties.

71 We accept in this regard that an issue may be brought into play in an arbitration even if not specifically raised in pleadings or in an agreed list of issues (*CDM v CDP* [2021] 2 SLR 235 at [18]; *CAJ v CAI* [2022] 1 SLR 505 at [49]–[50]), and we are prepared, for the sake of argument, to give Tata the benefit of the doubt that applying the "but-for" test in the No Breach Scenario was an issue to be determined in the Arbitration. Nonetheless, a close, commercial and reasonable reading of the Quantum Award reveals that the Tribunal *accepted* Kleros's arguments on what the "but-for" counterfactual scenario entailed, and which Tata did not object to. The Tribunal then proceeded to address Tata's arguments that its breaches could not have caused Kleros's loss.

72 Before we delve into the arguments and analysis in greater detail, we would highlight that there was considerable argument before us on whether the No Breach Scenario counterfactual was in fact common ground or agreed in the Arbitration.[117] We would make the following observations. From the arbitral record – in particular Kleros's opening statement at paras 29 to 33,[118] its closing submissions at paras 107 to 112,[119] and its reply submissions at paras 14 to 16[120] – Kleros repeatedly submitted that in the counterfactual world, Tata was obliged

117 Transcript of 16 March 2026 at p 8 ln 2 – p 11 ln 6 and p 24 ln 12–21. Transcript of 17 march 2026 at p 38 ln 3 – p 39 ln 17.

118 12CBD26–27.

119 12 CBD169.

120 12CBD405 onwards.

to inform Kleros if it intended to walk away without breaching the NDAs. This submission emerges most clearly in Kleros's reply closing submissions at para 16: "Tata cannot rely on that… because the counterfactual world which the Tribunal has to consider for the purpose of Kleros's Loss of Chance claim is one in which Tata must be assumed not to have breached the NDAs". Footnote 12 of that paragraph refers to Kleros's closing submissions at para 108, where Kleros argued: "As soon as Tata decided that it no longer wished to explore the possibility of developing the Krutogorovo Deposit with Kleros, *it should have informed Kleros of the same and walked away without breaching the NDAs*" [emphasis added].

73 It is notable that Tata – be it in its opening statement, closing submissions or reply submissions – did not object to this submission. Specifically, Tata did not contend that no such obligation for Tata to notify Kleros and walk away arose or had been found in the Liability Award; nor was there any submission by Tata that this was an unpleaded point or a contention that was contrary to an agreed counterfactual.

74 Further, in its opening statement (at paras 34, 37, 41, 44 and 47)[121], Tata set out its case on causation in a loss of chance claim in the following terms: "if the claimant has lost a real or substantial chance that involves whether a third party would act in a certain way, *causation is satisfied and the tribunal can move on to assessment of that chance*" [emphasis added]. Tata returned to the question of causation in its closing submissions at paras 90 and 95,[122] and again in its reply closing submissions at paras 10 to 15 and essentially repeated its

[121] 12CBD109 onwards.

[122] 12CBD340 at paras 90 and 95.

submissions on causation contained in its opening statement.[123] At no point did Tata object to, or engage with, Kleros's submission that in the "but-for" No Breach Scenario counterfactual world, Tata was obliged to inform Kleros as soon as it intended to walk away. It is also reasonably clear to us that even though both sides may have argued at various points on the basis that the "but-for" test applied to causation, there was *no agreement* on what the No Breach Scenario counterfactual in fact entailed in terms of its specific parameters or what the Tribunal could or could not consider in that counterfactual world – and Tata has not in fact shown that the precise parameters of what could be considered by the Tribunal in that counterfactual world were *also* agreed or clearly delineated by the parties. Kleros in fact submits that the specifics of what could be considered or populated in the counterfactual world were not agreed and very much in dispute.

75 This is significant for two reasons. First, as we indicated above (at [71]), we are prepared to assume for Tata's benefit that the parties argued "but-for" causation on the basis of a counterfactual world in which Tata did not breach the NDAs *ie*, the No Breach Scenario. But the second and more important reason is that, in our view, the Tribunal ultimately *accepted* Kleros's arguments on causation in the No Breach Scenario, even if only implicitly, based on parameters which Kleros raised and which Tata did not object to or rebut. We elaborate below.

76 At paras 183 to 186 of the Quantum Award, the Majority accepted Mr Skulason's evidence that when Kleros chose to do business with Tata and not explore deals with other potential partners, it did so on the assumption that Tata would not breach its contractual obligations under the NDAs and go behind

123 12CBD449 onwards.

Kleros's back to exclude it from the project. The Majority found that, by March 2016, Kleros had exhausted all reasonable attempts to salvage a possible investment partnership with Tata, and that this was met with Tata's efforts to actively exclude Kleros from the Project. The Majority's reasoning – *ie*, that it was Tata's conduct in breach of the NDAs, rather than any self-imposed constraint on Kleros's part, that caused Kleros's loss of chance – informs the Majority's analysis when it addressed each of Tata's arguments as to why Kleros would not have been able to develop the project either on its own or with a third party.[124] While this reasoning may not emerge explicitly or clearly from a reading of the Quantum Award, it equally cannot in our view be said that a "virtually inescapable" inference arises that the Tribunal completely failed to address and decide the issue of causation.

77 Reverting to the Quantum Award, at para 34, the Tribunal summarises Tata's arguments on loss of chance and causation. At paras 45 to 48, the Tribunal explains its approach, and one finds repeated references in the Quantum Award to the phrase "a real and substantial chance" of developing the project on its own or with a third party – for example, paras 172 to 176 – which echoes Tata's own submissions on causation (see above at [74]). Immediately thereafter, at para 177, the heading reads "But for Tata's breaches…",[125] and at para 181, after summarising the breaches found in the Liability Award, the Tribunal states: "The Majority is satisfied on the balance of probabilities that but for Tata's breaches, Kleros would certainly have made efforts…". These references, taken together, constitute evidence demonstrative of the issue of causation being present in the Tribunal's mind – whether articulated as the "but-

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124 Quantum Award at paras 183–186 (found in WS–SS for OA 24/25 at SS–1).

125 Quantum Award at paras 177 (found in WS–SS for OA 24/25 at SS–1), referenced in Transcript of 16 March 2026 at p 44.

for test" or the "real and substantial chance" formulation that Tata itself had advanced.

78 At paras 182 and 183 read with para 192 of the Quantum Award, the Tribunal then sets out *and accepts* the evidence of Mr Skulason and Mr Palit. In accepting Mr Palit's evidence that "[h]ad Tata walked away as soon as it decided it did not wish to pursue the Project… I am confident that we could have successfully developed the Project with another partner", the Tribunal was, in our view, approaching the issue of causation and the counterfactual *in the manner argued for by Kleros in its opening and closing submissions* (at [72] above). As we have noted above (at [73]), Tata did not at any time object to or engage with Kleros's submissions in this regard on causation despite having the opportunity to do so. To recapitulate, Kleros's submission was that, in the No Breach Scenario counterfactual world, the contemplated scenario was one where as soon as Tata knew it did not wish to explore the project with Kleros any further, it should have informed Kleros and walked away. And once that happened, Kleros would no longer be bound by any of its self-imposed restraints (referred to by the Tribunal at para 186 of the Quantum Award)[126] and could explore the opportunity either on its own or with others.

79 After accepting Kleros's submissions, the Tribunal then proceeds to address Tata's multifarious arguments on why Kleros could not have developed the project with anyone else – for example, that Kleros lacked the financial wherewithal, the expertise, and the support of the Russian government. Tata made extensive submissions on these points and the Majority dealt with each of them, and at para 238 of the Quantum Award, the Majority answers Issue 1(b) in the affirmative. In doing so, it was addressing Tata's own arguments *on*

126 Quantum Award at para 186, referenced in Transcript of 16 March 2026 at p 44.

causation that Kleros did not have a real and substantial chance of exploiting the Deposit, and therefore Tata's breaches did not cause Kleros any loss.

80 In our judgment, reading the section of the Quantum Award dealing with Issues 1(a) and 1(b) as a whole, reasonably, commercially and not with a hypercritical eye but supportively, and with a view to understanding the Tribunal's approach in substance, we are far from satisfied that a virtually inescapable inference arises that the Tribunal completely failed to apply its mind to and decide the issue of causation.

81 While there are aspects of the Quantum Award that could have benefited from clearer drafting, we do not engage in an exercise concerning literary precision – the Majority's reasoning need only be discernible. The court is not concerned with the quality of the award or the depth of its analysis but the fact or existence of analysis. Further, it is also established law that a tribunal is only required to deal with essential issues, not every argument raised, and must be given fair latitude in selecting which issues are essential (*ASG v ASH* [2016] 5 SLR 54 ("*ASG v ASH*") at [59], citing *TMM Division Maritima SA de CV v Pacific Richfield Marine Pte Ltd* [2013] 4 SLR 972 at [72]–[77]). A decision on one argument that resolves an essential issue suffices, and remaining arguments that become academic need not be addressed (*ASG v ASH* at [59]). Critically, natural justice requires that parties be heard, not that they receive responses on every submission – and a tribunal that has genuinely applied its mind to an issue does not breach natural justice merely because its conclusion may appear inexplicable or reflects a miscomprehension of the submissions (*SEF Construction Pte Ltd v Skoy Connected Pte Ltd* [2010] 1 SLR 733 at [60]; *ASG v ASH* at [60]).

82 In our view, there is sufficient evidence in the Quantum Award to demonstrate that the Tribunal applied its mind to and approached the question of causation on the basis of the arguments put before it by both sides, and that in so far as it had to consider the No Breach Scenario counterfactual, the Majority did so in accepting Kleros's submissions on what that counterfactual specifically entailed. It does not, in our view, matter that the Majority did not *expressly* state or find that Tata was obliged to inform Kleros of its intention to walk away – it was implicit in the Majority's reasoning, in particular its acceptance of the evidence of Mr Skulason and Mr Palit (see above at [78]) and Kleros's submissions, that in that no breach counterfactual world, Kleros would come to know that Tata was no longer interested and had walked away, thus clearing the way for Kleros to move forward either on its own or with another party. Contrary to the submission of Mr Singh SC, there was no need for the Tribunal to have found any such obligation on the part of Tata in the Liability Award. In the Liability Award, the Tribunal was determining what *breaches* Tata had *in fact* committed. In the Quantum Award, and in addressing the *counterfactual*, the Tribunal was entitled to consider what Tata *ought* to have done in a counterfactual world where Tata committed *no* breaches. Based on Kleros's submissions, the Majority was perfectly entitled to accept the submission that Tata was obliged to notify Kleros and walk away, and thereafter analyse whether, on the evidence before it and the submissions advanced, there was a real and substantial chance that Kleros could have developed the project either on its own or with a third party. In essence, therefore, Tata's present *infra petita* complaint is, in our view, really a disguised attempt (borne out of counsel's ingenuity) at attacking the merits of the Majority's decision, which is a matter that is not justiciable before us.

83 It is also apparent to us that whilst the Tribunal may have broken down the first quantum issue into three sub-issues, the Majority's analysis in the

Quantum Award did not neatly compartmentalise the issues into Issue 1(a) and Issue 1(b) – the Majority's reasoning at times straddled both, and this must be borne in mind when reading the Quantum Award as it demonstrates to us that the Majority was not addressing the issues in silos or with blinkers on.

84 As for Tata's complaint that the Tribunal failed to conduct a breach-by-breach analysis, our first observation is that this was *not* how Tata itself argued its case on causation in the Arbitration. Tata's case on causation in the Arbitration was directed at why Kleros would not have been able to develop the project on its own or with anyone else, and the Tribunal addressed *each* of those arguments in turn – this is apparent from paras 96 to 101 of the Quantum Award. Again, Tata's complaint in this regard is, in substance, no more than a veiled attempt at challenging the merits of the Quantum Award.

85 For the foregoing reasons, it is our view that Tata's complaint that the Majority breached the fair hearing rule on the Causation Issue, whether on the grounds as originally raised in OA 24 and the supporting witness statement and/or in its written submissions, are without merit. In our judgment, there was no breach of natural justice by the Majority. The Majority did apply its mind to and decide the issue of causation. Accordingly, we dismiss this ground of objection.

The Remoteness Issue

86 At the outset, it is apparent to us that Tata's arguments on this issue are, in effect, an attempt to force a square peg into a round hole. Tata submits that the Quantum Award should be set aside for breach of natural justice and/or failure to follow the agreed procedure on the ground that the Majority abdicated its duty to analyse and failed to apply its mind to Tata's submissions that

Kleros's damages for loss of chance were too remote and therefore unrecoverable.[127]

87 Kleros's position, in response, is that the Tribunal did in fact address the issue of remoteness, and did so in the context of both Issues 1(a) and 1(b). Kleros points to paras 29 to 30 and 32 to 33 of the Quantum Award in relation to Issue 1(a), and paras 120 to 125 and 168 to 171 in relation to Issue 1(b), as evidence that the Majority had the remoteness arguments squarely in view throughout its analysis.[128]

88 At the hearing before us, Mr Singh SC submitted that Kleros's written submissions had not, in his view, engaged with Tata's actual argument. He directed the court to para 75 of the Quantum Award, where the Tribunal had adopted a test requiring an examination of whether the essence of the breach of duty included depriving the claimant of the relevant chance. His complaint was that having adopted that test, the Tribunal conducted no further analysis of whether it was actually satisfied in respect of the various breaches found in the liability phase, leaving it entirely unclear whether every breach, or only some, had been considered sufficient to meet the test. He submitted that this failure to apply the adopted test amounted to a denial of a fair hearing on what the Tribunal itself had identified as the core of the remoteness inquiry, and adopted all his earlier arguments on natural justice in support.[129] In response, Mr Landau KC challenged the premise of Tata's argument, submitting that there was no agreement that remoteness was an issue squarely before the Tribunal – it did not appear in the agreed list of issues, and the fact that both sides had addressed it

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127 WS–SS for OA 24/25 at Section B.2, paras 105–106.

128 IS–WS for OA 24/25 at para 213.

129 Transcript of 16 March 2026 at p 120 ln 7 – p 122 ln 24.

in their submissions could not amount to an agreement sufficient to found a natural justice challenge. He further submitted that even if the Tribunal had been obliged to address remoteness as an essential issue, any failure to apply a cited test correctly would at most constitute an error of law, which is not a ground for setting aside. In any event, he submitted that the Tribunal had engaged extensively with the remoteness test set out in *McGregor on Damages* throughout the Quantum Award and not merely at para 75, pointing to paras 281 and 282 under the mitigation analysis as further instances where the Tribunal applied the same test, and noting that the relevant *McGregor* formulation appeared at least ten times across the Quantum Award, demonstrating that the Tribunal had the remoteness test firmly in mind throughout its analysis.[130]

Analysis and decision

89 Having considered the Quantum Award carefully, we agree with Kleros's analysis. The starting point is to understand how the parties themselves framed the issues. Based on the first issue as sub-divided by the Tribunal, causation, remoteness and/or foreseeability were considered together under Issue 1(b). In Tata's own opening statement, under the heading "Kleros is not entitled to damages for loss of opportunity",[131] Tata addressed the law on loss of chance claims at para 42, citing a reference from *Chitty on Contracts*, and at para 47 submitted that "if the tribunal finds that Kleros had on the balance of probabilities lost a real and substantial chance (and not a speculative one) that a third party would have acted in a certain way, then the tribunal can proceed to quantification to apply the appropriate discount to reflect the loss of chance". Tata's own approach was therefore to address causation/remoteness and

130 Transcript of 18 March 2026 at p 77 ln 23 – p 87 ln 7.

131 12CBD95.

foreseeability under the same umbrella as opposed to addressing them as discrete issues, and the parties themselves appeared, at times, to treat the two aspects as overlapping rather than involving discrete inquiries and analysis. Indeed, para 71 of Mr Shantanu Singh's witness statement in these proceedings is further evidence that Tata itself recognised that the "causation analysis" necessarily *included* considering whether the loss of chance claimed was "foreseeable".

90 That was, in essence, the Tribunal's approach as well. In our view, it is clear enough that the Tribunal understood that it was addressing questions of causation and remoteness, and that the two concepts might overlap rather than sit in neat silos. This is evident from paras 66 to 75 of the Quantum Award. In these paragraphs, the Majority set out, amongst other things, the applicable English law standard for assessing loss of chance damages (which required proof of a real and substantial, non-speculative chance assessed on reasonable certainty and particularity), the Majority's rejection of Tata's proposed limitation on the rule that such damages should only be available where the contract's very object was to provide the chance in question, and its acceptance instead of the broader principle that loss of chance damages are recoverable wherever the essence of the breach includes depriving the claimant of the opportunity to secure a favourable outcome.[132] The reference to the "real and substantial" test at para 67 of the Quantum Award echoes Tata's own submission in its opening statement. At paras 76 to 84 of the Quantum Award, the Majority also addresses the two "other important limitations" referred to by Tata in its opening statement at paras 49 to 51.

[132] Quantum Award at paras 66–75.

91 The Tribunal's engagement with the issue of remoteness is also evident at several specific points in the Quantum Award. It is first referenced at para 75, demonstrating that the issue was present in the Majority's mind. It surfaces again at para 120, under the heading "Kleros's losses were not foreseeable", and yet again at para 168, under the heading "Kleros's claim falls outside the parties' contemplation and is too remote". At para 168, the Tribunal footnotes and quotes from Tata's closing submissions at paras 67 and 68 respectively,[133] which shows that the Tribunal was considering remoteness under Issue 1(b) together with causation. There, Tata's closing submissions had read:

> 67. Kleros is entitled to recover damages *only if it is not too remote in* that it may fairly and reasonably be considered as either arising naturally (*i.e.,* according to the usual course of things) from the breach, or such as may reasonably be supposed to have been in the contemplation of both parties, at the time they made the contract, *as the probable result of the breach of it*. In a recent (and perhaps more practically directed) statement of the principle, it has been said by Lord Hodge JSC, giving the opinion of the Privy Council, that to be recoverable, "t*he type of loss must have been reasonably contemplated as a serious possibility*" and that "what was reasonably contemplated depends upon the knowledge which the parties possessed at that time or, in any event, which the party who later commits the breach, then possessed." This is the standard approach of the English courts to remoteness: but there may be cases where that standard approach would not reflect the expectation or intention reasonably to be attributed to the parties, and it is now established that a defendant is only liable for loss which it was the intention of the parties that he should bear – that is to say, loss for which the defendant had assumed responsibility or which falls within the scope of the defendant's duty. It is undisputed that Kleros bears the burden of showing that its loss is foreseeable.
>
> 68. Tata submits that the damages which Kleros now seeks under its Loss of Opportunity Claim are simply too remote. *It was not in Tata's reasonable contemplation or actual knowledge when it entered into the 2014 NDA that a breach of its obligations would cause Kleros to lose the chance of proceeding with the Project either on its own or with a third party other than Tata.* Further and in any event, the loss of opportunity relied upon by

133 12CBD330–331.

> Kleros (which was unquantifiable, unpredictable, uncontrollable and/or disproportionate) was not one for which Tata assumed responsibility or which fell within the scope of Tata's duty. Tata advances this submission in circumstances where:
>
> (a) Kleros was in fact pursing other partners;
>
> (b) it was never communicated to Tata that Kleros was only pursuing Tata; and
>
> (c) to the contrary, Kleros had in fact told Tata on multiple occasions that it was [pursuing] other partners.
>
> [emphasis added; emphasis in the original removed]

92 The Tribunal, in this context, stated at para 168 of the Quantum Award (footnoting para 68 of Tata's closing submissions at the last sentence of the below quote):

> Kleros's claim falls outside the parties' contemplation and is too remote
>
> 168. Tata argues that Kleros's claim for loss of chance damages is too remote because the opportunity lost was neither:
>
> (1) "in Tata's reasonable contemplation or actual knowledge when it entered into the 2014 NDA that a breach of its obligations would cause Kleros to lose the chance of proceeding with the Project either on its own or with a third party other than Tata"; nor one
>
> (2) "which Tata assumed responsibility [for] or which fell within the scope of Tata's duty".
>
> And, in any event, the opportunity Kleros claimed to have lost was, in Tata's view, "unquantifiable, unpredictable, uncontrollable and/or disproportionate".

93 In this regard, Kleros has in its written submissions helpfully directed us to a number of points made by the Majority in the Quantum Award. In relation to Issue 1(a), the Tribunal noted Kleros's position that Tata's first "limitation" on the recovery of loss of chance was in substance an aspect of the remoteness principle, and summarised Tata's position as being that a loss of chance claim can only be established where the claimant proves both that there was a real or

substantial chance a third party would have acted in a certain way but for the breach, and that the loss of chance was not too remote.[134] The Tribunal then proceeded to analyse both parties' arguments on Issue 1(a), including on remoteness, across paras 45 to 91 of the Quantum Award, and answered the questions arising from Issue 1(a) in the affirmative.[135] At paras 73 to 75, the Tribunal specifically addressed Tata's remoteness argument, finding it to be "much too wide" and "unsupported by the authorities they have cited".[136] Instead, the Tribunal accepted that damages can be awarded for loss of chance under English law "if the essence of the breach of duty includes depriving the claimant of the chance or opportunity of securing a favourable outcome", citing *McGregor on Damages* (Sweet & Maxwell, 21st Ed, 2020) at para 10-049.[137] In other words, as Kleros submits, the Tribunal unanimously agreed with Kleros that where the deprivation of a lost opportunity is the very essence of the breach, it follows that the loss is reasonably foreseeable and therefore not too remote.[138]

94 In relation to Issue 1(b), the Tribunal referred to its determination in the Liability Award that Tata had supplanted and circumvented Kleros's rights as an investor in the project, that its exclusion of Kleros was a breach of its obligation of good faith, and that it had intended to and did exclude Kleros from the project by working with Russian officials.[139] It is clear from para 178 of the Quantum Award that the majority kept the remoteness test it had identified under Issue 1(a) firmly in mind when finding that Tata's breaches had caused

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134 Quantum Award at paras 29 and 33.

135 Quantum Award at paras 45–91.

136 Quantum Award at paras 73–75.

137 Quantum Award at para 75.

138 WS–IS for OA 24/25 at para 215.

139 Quantum Award at para 174.

Kleros to lose the opportunity. The Majority then analysed remoteness and foreseeability *together with* causation across paras 181 to 204 of the Quantum Award.[140] At para 191, the Majority reasoned that the evidence did not support Tata's objections to Kleros's claims, including its objection on remoteness grounds, and that the position appeared to be "quite the opposite".[141] At para 193, the Majority concluded that the opportunity which Kleros lost was "a direct result of Tata's breaches of the NDA" and was not, as Tata had submitted, "entirely speculative" – and in so finding, the majority was linking this back to Tata's arguments on remoteness and Kleros's submission on foreseeability.[142] At para 201, the Majority found that throughout their dealings, Kleros had always maintained that it intended to apply for a licence for the mining rights, that the parties had proceeded on that shared understanding, and that it was not until March 2016 that it became apparent to Kleros that Tata was planning to exclude it from the project.[143]

95 In any event, Kleros submits, any argument that the Majority failed to find that Kleros's loss was reasonably foreseeable and not too remote cannot survive the Majority's express finding at para 282 of the Quantum Award, where it held that "the very essence of Tata's own breaches of the NDAs was to deprive the claimant of the chance or opportunity of securing a favourable outcome" and that this directly foreclosed Kleros's opportunities to seek investments from third party investors.[144] Although that finding was expressed in the context of mitigation, it makes plain that the Majority clearly formed the

140 Quantum Award at paras 181–204.

141 Quantum Award at para 191.

142 Quantum Award at para 193.

143 Quantum Award at para 201.

144 Quantum Award at para 282.

view that the essence of Tata's breaches was to deprive Kleros of an opportunity, such that – in accordance with its reasoning at para 75 – the loss of that opportunity was reasonably foreseeable and therefore not too remote.[145]

96 In our view, while the Tribunal may not have analysed remoteness in a clearly demarcated and separate section of the Quantum Award, there is firstly no requirement that it should have done so. It was entirely within the Majority's purview how it wished to structure the Quantum Award. The court is concerned with substance not form. To this end, the Quantum Award and its findings must be read as a whole and in context, to determine what the Tribunal was in substance saying and deciding, with appropriate latitude extended for any infelicitous language, imprecision in drafting or for that matter less than elegant structuring. As we have mentioned above (at [71] and [80]), the Quantum Award must be read in a reasonable and commercial manner, and in a way that upholds rather than destroys it. It should again be borne in mind here that even Tata's own formulation of the issue in the Memorandum of Issues did not expressly refer to remoteness or foreseeability as separate and discrete points or sub-issues to be decided. Similarly, the Majority was entitled to deal with the issues in the manner it saw fit, including by analysing them under Issue 1(a) and/or Issue 1(b), and there is nothing objectionable in its having done so. The issue of remoteness was, in any event, potentially relevant *both* to whether loss of chance damages was available under English law and to whether the chance lost by Kleros was real and substantial rather than speculative. Thus, the fact that the Majority referenced and considered the remoteness issue under Issue 1(a) and/or (b) – far from demonstrating a failure to address its mind to the issue at all – was in fact evidence that the Majority was not analysing the issues in

[145] WS–IS for OA 24/25 at paras 218–219. Quantum Award at para 75.

silos but instead, seeking to connect the dots across the sub-issues where appropriate.

97 All of what we have said above simply points to the conclusion that it cannot be said that the Majority completely failed to address the issue of remoteness, that it was not even in the Tribunal's mind, or that the Tribunal failed to connect the relevant dots. From the evidence before us, none of those inferences are "virtually inescapable", including Mr Singh's argument that the Majority failed to link the test it referred at para 75 of the Quantum Award to each of the breaches the Tribunal had found in the Liability Award; even if that submission had any merit, at best it would amount to an error of law in the treatment of the issue of remoteness, and not a complete failure to decide it. There is in any event sufficient evidence within the Quantum Award, as we have highlighted above, demonstrating that the Tribunal was dealing with the questions of causation and remoteness and/or foreseeability in the round, and not as separate discrete issues. In our judgment, as with the Causation Issue, this ground of challenge is also, in substance, an attempt by Tata to re-argue the merits of the case, which it is not entitled to do.

98 For the foregoing reasons, we also dismiss Tata's complaints on the Remoteness Issue. In our judgment, there was no breach of natural justice by the Majority.

The Mitigation Issue

99 Turning to the Mitigation Issue, Tata submits that the Majority breached the fair hearing rule and/or the agreed arbitral procedure by failing to inform or give notice to the parties that it was of the view that "the mitigation principle is of little or no legal relevance" to Kleros's loss of chance claim. Tata further

alleges that the majority abdicated its duty to analyse and failed to apply its mind to the parties' submissions on the essential issue of mitigation.[146]

100 Kleros, in response, submits that Tata's objection is without merit. The Majority devoted twelve pages of the Quantum Award to Issue 1(c) and its conclusion that the mitigation principle was of "little or no legal relevance" was not a failure to engage the issue but a reasoned legal determination of it. In any event, the Majority went on to reject Tata's arguments on mitigation on the facts, finding that Kleros's alleged failures to participate in the auction and to purchase shares in FENR were both directly caused by Tata's own conduct. For example, that Tata had worked with Russian officials to exclude Kleros from the Project, to ensure no other bidder would participate, and then used FENR as the very vehicle to enact that scheme, such that Tata could not turn around and assert that Kleros bore legal responsibility for failing to act. The majority ultimately concluded that most of Tata's mitigation submissions were impermissible backdoor attempts to re-litigate findings already made in the Liability Award, that the evidence did not show Kleros had acted unreasonably in the ordinary course of business, and that Tata's argument on mitigation could not be sustained.[147]

Analysis and decision

101 We accept Kleros's submissions on this issue. The objections raised by Tata on the Mitigation Issue are, in our view, the clearest example of Tata's attempt to challenge the merits of the Quantum Award under the guise of a due process challenge. For present purposes, we will *assume* that mitigation was an

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[146] WS–SS for OA 24/25 at para 119.

[147] IS–WS for OA 24/25 at paras 227–242.

agreed essential issue and that the parties engaged on it in the Arbitration. At para 16(c) of the Quantum Award, the Majority summarised the mitigation issue as "[w]hether Kleros was required to – and if so, did adequately – mitigate its damages". From para 270 onwards, the Majority addressed the anterior question and concluded at para 282 that it was legally irrelevant.[148] In this regard, we accept Kleros's submission that the Tribunal was entitled to take a different view of the law *even if* the parties had proceeded on a different basis. A tribunal is not bound to only accept one or the other party's contentions, even on a point of law (*Republic of India v Vedanta Resources plc* [2021] 2 SLR 354 at [22]; *Vietnam Oil and Gas Group v Joint Stock Company (Power Machines – ZTL, LMZ, Electrosila Energomachexport)* [2025] 2 SLR 273 at [37]).

102 In any event, the Majority did not end its analysis there. It went on from para 283 onwards – beginning with the sentence "*Nevertheless and for completeness the tribunal will briefly address the substance of the parties' submissions*" – to analyse in some detail the arguments and evidence before it on mitigation, and eventually concluded that Kleros did not fail to mitigate. In doing so, the Tribunal expressly or at the very least implicitly rejected Tata's arguments on mitigation.

103 The applicable principles are well-established, and we need only state them here briefly. Tata was entitled to a reasonable opportunity to be heard, but what it was *not* entitled to was a correct decision (whether on the law or the facts). Nor did it have any right to have the Tribunal accept its arguments. At para 115 of Tata's written submissions in these proceedings, [149] two arguments on mitigation are identified – both of which were challenged by Kleros. At para

148 Quantum Award at paras 270–282.

149 AWS at para 115.

284 of the Quantum Award, the Majority found *both* arguments unpersuasive and rejected them – in the Majority's own words "[b]oth of Tata's submissions are rejected", and at para 285 onwards, the Majority explains why it rejected both arguments. In our view, that is the end of the matter – the fact of analysis and decision on the issue (and on Tata's arguments) is plain for all to see. The Majority clearly applied its mind to the issue and reached a decision. Whether that decision was right or wrong is entirely immaterial and is not a question before this court. It is, equally, immaterial whether the issue was dealt with by the Majority in a single paragraph or several. Brevity is, at times, welcome. Having found that mitigation was not legally relevant, the Majority nonetheless stated that it would *briefly* address the substance of the parties' arguments on mitigation – and it kept its word. But more importantly, what those paragraphs clearly demonstrate is the Majority applying its mind to the issue of mitigation and coming to a decision on it in any event. Accordingly, we dismiss Tata's objection that there was a breach of natural justice in relation to the Mitigation Issue.

104 For good order, we address one final point on Tata's *infra petita* challenges with regard to the Causation Issue, Remoteness Issue and Mitigation Issue. Taking them collectively, the additional complaint by Tata that the Majority failed to adhere to the agreed arbitral procedure is inextricably bound up with Tata's *infra petita* objection.[150] It is not disputed that part of a tribunal's compliance with the agreed arbitral procedure is to decide the essential issues that the parties have asked it to decide. In this regard, Tata accepts that if the court finds that there is no breach of natural justice in that the Tribunal did apply its mind to the essential issues – or, put negatively, did not completely fail to

[150] AWS at paras 63, 66, 108 and 132.

decide them – then there is equally no breach of the agreed arbitral procedure, and accordingly that ground must also fall.

105 As we have found no breaches of natural justice in relation to any of the objections raised by Tata on the Causation Issue, Remoteness Issue and Mitigation Issue, there was correspondingly also no breach by the Majority of any agreed arbitral procedure. Consequently, we also dismiss Tata's objections in that regard.

106 Finally, in light of our conclusion that there was no breach of natural justice or breach of the agreed arbitral procedure by the Majority, the question of remitting the Quantum Award is rendered moot, and we say nothing more on it.

Whether the Majority demonstrated apparent bias

107 This ground of challenge is brought by Tata under s 24 of the IAA on the basis that there was a breach of the rules of natural justice – specifically, the rule against bias. This aspect of Tata's application was argued by Ms Koh Swee Yen SC ("Ms Koh SC").

108 The applicable test in relation to apparent bias is not in dispute. As held in *BOI v BOJ* [2018] 2 SLR 1156 ("*BOI v BOJ*") at [103], the question is whether there are circumstances that would give rise to a reasonable suspicion or apprehension of bias in the fair-minded and informed observer, or as summarised in *AMZ v AXX* [2016] 1 SLR 549 ("*AMZ v AXX*") at [94], whether a reasonable and fair-minded person observing the proceedings and knowing all the relevant facts would have a reasonable suspicion that a fair determination of the dispute is not possible. This is a hypothetical inquiry directed from the perspective of the observer and whether he or she would conclude that there is

a real possibility of bias, where "real" refers to a substantial, and not merely imagined or fanciful, possibility of bias rather than proof of actual bias. Any such suspicion must be grounded in objectively ascertainable facts and be capable of articulation by reference to the evidence. In undertaking this inquiry, the court must be careful not to attribute to the observer detailed legal or procedural knowledge, or insider knowledge of the inclinations, character, or abilities of the adjudicator, while recognising that the observer is fair-minded, neither complacent nor unduly sensitive or suspicious (*BOI v BOJ* at [103]).

109 Further, as stated in *DLS v DLT* [2025] SGHC 61 at [136], where the court finds that there was no apparent bias from the circumstances relied on, including the circumstances of any alleged failure to disclose, it is not necessary to decide whether there was in fact a failure to disclose on the part of the arbitrator concerned. We agree with that approach and have proceeded on that basis.

110 Before turning to the merits of this ground of Tata's application, an anterior question arises as to whether Tata's application before the SIAC Court was time-barred, and accordingly also barred before us. Kleros submits that the challenge before the SIAC Court was time-barred, as the challenge was not filed within 14 days of the relevant circumstances becoming known or reasonably knowable to Tata, as stipulated by Rule 15.1 of the SIAC Rules 2016.[151] Tata's first response is that Kleros has provided no authority for the proposition that the timelines applicable to a challenge under the SIAC Rules also apply to a setting aside application before this court. The only time limitation applicable before us, according to Tata, is Article 34(3) of the Model Law which provides

151 Kleros's Statement for SIC/OA 13/2025 dated 11 August 2025 ("Kleros's Statement for OA 13") at para 8.

that an application to set aside an award must be made within three months of the award being received by the party making the application, and which timeline Tata says it has complied with.[152] Second, Tata argues that the rationale underlying the short timelines for institutional challenges – namely, to prevent dilatory tactics while the arbitration is pending – does not apply in the present context, and that when a jurisdictional objection is raised out of time under institutional rules, the court hearing a *de novo* challenge is not precluded from considering it on that basis. In any event, Tata submits that it should not be precluded by a short delay.[153]

111 In our view, the application before the SIAC Court was time-barred, save for one ground, and we agree with the decision of the SIAC Court on the time-bar point. By 7 January 2025, Tata had sufficient information to launch the challenge, and we do not accept that it was only upon obtaining "full" responses and information that Tata was in a position to make the application. The only objection that the SIAC Court found was not time-barred – namely, Mr Isaacs KC's alleged *ex parte* communication with Kleros's counsel – has since been dropped by Tata in these proceedings. Thus, *all* of the grounds now relied upon by Tata in the proceedings before us were found to be time-barred by the SIAC Court.

112 As to whether the application before this court is similarly time-barred, ultimately, we do not find it necessary to decide that question. This is because even *assuming* that the application before us is not time-barred and that we may entertain the application *de novo*, we are satisfied that there is no basis to

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152 ARWS at para 71.

153 ARWS at para 71.

conclude that there was any apparent bias on the part of the Majority. We elaborate below.

113 As mentioned earlier, Tata has dropped a number of points and now limits its challenge to three broad points – two are directed to Prof Boo and one to Mr Isaacs KC. First, Prof Boo did not disclose his appointment in an ICSID arbitration in February 2022 where Omni Bridgeway Limited ("Omni Bridgeway") was the funder of one of the parties. Second, Prof Boo failed to disclose that he shared a close personal and professional relationship with Mr Hughes, who was a member of The Arbitration Chambers Singapore (of which Prof Boo was the founding member) and subsequently Fountain Court Chambers (of which Prof Boo and Mr Hughes were door tenants), and who was also a member of Omni Bridgeway's investment committee. Additionally, Tata raises the further complaint, not raised before the SIAC Court, that Prof Boo and Mr Hughes were both adjunct professors at the Faculty of Law of the National University of Singapore. Third, Mr Isaacs KC did not disclose his appointment as sole arbitrator in an LCIA arbitration in March 2024 where Omni Bridgeway was the funder of one of the parties in that arbitration.[154] The other objections raised by Tata before the SIAC Court and in OA 13, including the allegation that the Tribunal had failed to act in an even-handed manner, have all since been dropped by Tata.

114 On the first point, Tata submits that Kleros's response – that disclosure was unnecessary as the two matters did not involve related issues nor conflicts in the appointment process – misses the point. Tata contends that a party would expect an arbitrator appointed in two separate references involving the same funder to disclose this, and the IBA Guidelines themselves recommend that they

[154] RWS at para 104.

be applied with "robust common sense and without unduly formalistic interpretation".[155] On the second point, Tata notes that Mr Hughes was a member of The Arbitration Chambers Singapore which Prof Boo started, and subsequently of Fountain Court Chambers which Prof Boo was also a door tenant of. Further, Mr Hughes was also a member of Omni Bridgeway's investment committee, which decides whether to fund arbitration matters such as the present and which specifically reviews the merits of claims and must approve funding agreements before they can be executed; meaning that Omni Bridgeway or Mr Hughes had a direct economic interest in the outcome of the Arbitration. Tata argues that this situation falls within the spirit of para 3.3.3 of the Orange List of the IBA Guidelines, which, when read together with General Standard 3(a) and the Explanation, flags the following as a situation which "may, in the eyes of the parties, give rise to doubts as to the arbitrator's impartiality or independence", "with the consequence that the arbitrator has a duty to disclose such situations":

> A close personal friendship exists between an arbitrator and a manager or director or a member of the supervisory board of: a party; an entity that has a direct economic interest in the award to be rendered in the arbitration; or any person having a controlling influence, such as a controlling shareholder interest, on one of the parties or an affiliate of one of the parties or a witness or expert.

115 Tata further argues this is also consistent with the SIAC Practice Note on Arbitrator Conduct in Cases Involving External Funding (PN-01/17, 31 March 2017) which provides that any relationship, direct or indirect, with an external funder should be disclosed. Tata contends that it is not disputed that the relevant circumstances said to bear out the close friendship between Prof Boo and Mr Hughes exist, nor that Prof Boo and Mr Hughes were both members of

[155] ARWS at para 73.

the same barristers' chambers at different points in time. Tata further notes that Kleros does not dispute Mr Hughes' membership on the investment committee of Omni Bridgeway, and that Prof Boo did not deny knowledge of Mr Hughes' position on the investment committee in his responses to Tata's challenge before the SIAC Court. As for Tata's additional point that Prof Boo and Mr Hughes were both adjunct professors at the Faculty of Law of the National University of Singapore, Tata argues that the formulaic approach taken by the SIAC Court in assessing conflicts arising from shared chambers membership should not be adopted here.[156] As for the third point involving Mr Isaacs KC, Tata submits that Kleros's characterisation of his omission as irrelevant is wrong – Mr Isaacs KC was under a duty to take into account all facts and circumstances and disclose any conflicts, and Tata submits that he failed in that duty. Tata further argues that a failure to appreciate the cumulative effect of continuing to accept appointments during the currency of an arbitration is itself a matter that would lead a reasonable observer to conclude there is a real possibility of bias. Kleros's attempt to downplay the significance of Mr Isaacs KC's statement that Omni Bridgeway's involvement was not "in his mind" prior to 13 December 2024 – by pointing to the four years that had elapsed since the Notice of Arbitration – is said to overlook Tata's two applications for security for costs in which Omni Bridgeway's involvement was central, as well as the references to Omni Bridgeway in both the Liability Award and the Quantum Award.[157]

116 On the other hand, Kleros submits that none of the appointments of Prof Boo and Mr Isaacs KC in unrelated arbitrations could reasonably give rise to doubts about their impartiality. Critically, none of those appointments were made by any party, counsel, or funder involved in the Arbitration, and the other

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156 AWS at paras 142(b) and 147. ARWS at paras 73–75.

157 ARWS at paras 73–75.

arbitrations in question did not involve related issues or parties. Kleros disputes Tata's characterisation, that those arbitrations "involved", *inter alia*, Omni Bridgeway Limited, as inaccurate and imprecise.

117 At the hearing before us, Kleros added that Mr Hughes' LinkedIn post (see [30] above), relied upon by Tata as evidence of a close personal and professional friendship between Prof Boo and Mr Hughes, was no more than a routine farewell message directed at Prof Boo in his capacity as founder and head of The Arbitration Chambers Singapore, and does not evidence any particular closeness between the two individuals. Kleros also relies on Prof Boo's categorical and uncontroverted declaration that he had never communicated with Mr Hughes about Omni Bridgeway's involvement in this or any other matter, noting that Tata did not dispute this despite seeking leave to respond. Kleros further submits that Mr Hughes' role in Omni Bridgeway's investment committee was purely advisory, the committee being one that only recommends rather than decides on funding. Finally, Kleros adds that the LCIA appointment of Mr Isaacs KC post-dated both the Notice of Arbitration and the Liability Award in the Arbitration, and that Mr Isaacs KC's statement that Omni Bridgeway was not "in his mind" prior to December 2024 is entirely understandable given the late stage at which the LCIA appointment was made.[158]

Analysis and decision

118 Having carefully considered the competing arguments, we are of the view that there is no merit to Tata's complaints. Turning first to the appointments, it cannot be disputed that none of the arbitral appointments in question were made by or at the instance of Omni Bridgeway, any of the parties,

158 Transcript of 18 March 2026 at p 126 ln 8 – p 158 ln 6.

or counsel involved in the Arbitration. The mere fact that Omni Bridgeway happened to be the funder of one of the parties in those unrelated cases – as it is in this case – does not, without more, give rise to any apparent bias. These were not repeat appointments or instructions by the same party or law firm, and none of the arbitrations concerned related issues or matters involving the parties or their affiliates in the Arbitration.

119 As for the alleged close relationship between Prof Boo and Mr Hughes, the fact that they were at one time both members of The Arbitration Chambers Singapore or Fountain Court Chambers, or were both adjunct lecturers at the same university, does not establish that they had a close personal or professional relationship of the kind that would be material to the question of apparent bias. As for Mr Hughes' LinkedIn post, even assuming that it was admissible as evidence before us, a fair objective reading of it does not convey that he was asserting any such relationship with Prof Boo. Crucially, Prof Boo has categorically confirmed that he has "never communicated with Mr Benjamin Hughes regarding his dealings with Omni Bridgeway on this or any other matter".[159] That confirmation was not disputed by Tata before the SIAC Court, or before us. We see no reason at all to disbelieve or doubt Prof Boo's confirmation, nor has Ms Koh SC suggested that we should do so.

120 As stated in *BOI v BOJ* at [103(d)], the reasonable informed observer is assumed to be "fair-minded" and would be neither complacent nor unduly sensitive or suspicious. The degree of likelihood of bias must be substantial and not merely imagined. The decision of the SIAC Court that there was no basis to conclude any apparent bias is also relevant, and *is itself* evidence of the views

159 Email from Prof Boo in respect of the Respondent's Challenge to Arbitrators dated 6 March 2025 (found in WS–SS for OA 13 at p 2644).

of reasonable, fair-minded and well-informed members of the public – *Aiteo Eastern E&P Co Ltd v Shell Western Supply and Trading Limited* [2024] EWHC 1993 (Comm) ("*Aiteo*") at [45]–[48]. We thus give appropriate weight to the decision of the SIAC Court as evidencing the views of fair-minded observers with knowledge of all the relevant facts. We note that Ms Koh SC did not seek to distinguish *Aiteo*, nor did she disagree that the decision of the SIAC Court could be taken as evidence of the views of fair-minded observers.

121 In addition, the fact that none of the IBA Guidelines on disclosure are directly on point is a further relevant consideration. This is not a case where any need for disclosure would have been immediately apparent even from reviewing the IBA Guidelines, or Rule 3.3.3 in particular. Further, whether disclosure is to be assessed from the perspective of the parties (as the IBA Guidelines envisage) is ultimately beside the point – the court applies an objective test to the question of apparent bias, even where there may have been a failure to disclose. In our view, even if the perspective of the parties is relevant for purposes of disclosure, the court nevertheless assumes that the party concerned is neither complacent nor unduly sensitive or suspicious. In our view, Tata's complaints are not of a fair-minded observer but of a party that is unduly sensitive or suspicious and seeking any means to overturn the Quantum Award. The timing of Tata's challenge before the SIAC Court (*i*e, mounted on the cusp of the delivery of the Quantum Award) and the fact that it has, before us, dropped numerous complaints that it had advanced before the SIAC Court and OA 13, support our views in this regard.

122 On the question of whether a third party funder bears the identity of the funded party by reason of its economic interest in the outcome of the Arbitration, we do not accept that simply because a party is funded, the funder must always be treated as bearing the identity of that party, even for the purposes

of disclosure. That question depends on the context, and to hold otherwise would, in effect, require the court to pierce the corporate veil in every case involving third party funding. We therefore disagree that in this case, the "party" to the Arbitration for purposes of disclosure is to be treated as Omni Bridgeway and not Kleros.

123 Finally, we further note that at the hearing before us, Tata was still unable to properly articulate what it says was the fear or danger in this case – whether, for instance, that there was a danger that the Majority would fail to decide the case on the merits or did in fact fail to do so.[160] While it had argued before the SIAC Court that the Tribunal (which would include Mr Ganguli SA) had not acted in an even handed manner, Tata has dropped all such allegations – thus, there is no suggestion before us that the Liability Award was not properly or fairly decided in accordance with the merits. Turning to the Quantum Award, there is also nothing in the Quantum Award to support a suggestion that the Majority's decision was otherwise than in accordance with the merits, and Tata did not point us to anything in the Quantum Award or the Majority's analysis and reasoning which might indicate otherwise. We have already dismissed all of Tata's natural justice objections, and in any event, Ms Koh SC did not contend that the Majority's alleged breaches of natural justice were also demonstrative of apparent bias. Thus, shorn of its frills, Tata's case on apparent bias is, in our judgment, no more than an unfounded apprehension that is ungrounded in evidence and unsupported by the findings and conclusions in the Liability Award or the Quantum Award. It bears repeating that ultimately, the apparent bias alleged by a party must indicate a danger that "a fair determination of the dispute is not possible" (per *AMZ v AXX*). In our view, the detail with which the Majority sought, in the Quantum Award, to address the evidence and

[160] Transcript, 18 March 2026 at p 252 ln 19 to p 255.

arguments raised in the second phase of the Arbitration only serves to underscore the weakness of Tata's objections.

124 For these reasons, we are satisfied that Tata's objections regarding the alleged apparent bias of the Majority are without merit. A reasonable, fair-minded member of the public with knowledge of all the relevant facts would *not* form a reasonable suspicion, based on the points argued by Tata before us, that a fair determination of the dispute was not possible on account of apparent bias on the part of Prof Boo or Mr Isaacs KC. Accordingly, we also dismiss this ground of Tata's application.

Conclusion

125 For the reasons set out above, we are satisfied that Tata's applications are all without merit. In our judgment, the Majority did not fail to decide any essential issues and accordingly, there was no breach of natural justice or breach of the agreed arbitral procedure. We are further satisfied that the circumstances relied upon by Tata before us do not give rise to any reasonable suspicion or apprehension of apparent bias on the part of any member of the Majority.

126 Accordingly, we dismiss OA 13, OA 24 and OA 25 in their entirety with costs. If parties are unable to agree on costs, they are to file written submissions on costs within two weeks of the date of this judgment. Such submissions are to be limited to 10 pages each (double-spaced), excluding case authorities and any accompanying breakdowns of costs and disbursements.

S Mohan
Judge of the High Court

Anthony Besanko
International Judge

Anthony Meagher
International Judge

Davinder Singh s/o Amar Singh SC, Jaikanth Shankar, Hanspreet Singh Sachdev, Gulshan Singh Gill and Goh Enchi, Jeanne (Davinder Singh Chambers LLC) (instructed), Koh Swee Yen SC, Wong Zheng Hui, Daryl, Frank Oh Sheng Loong, Edwin Tan and Elizabeth Wee Wen Cui (WongPartnership LLP) (instructed) and Daniel Chia Hsiung Wen, Charlene Wee Swee Ting, Chan Kit Munn Claudia and Tan Yi Liang (Prolegis LLC) for the applicant;
Toby Landau KC, Liang Hanwen, Calvin and Lim Rui-Qi, Rochelle (Duxton Hill Chambers) for the respondent.