

**IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE**

[2026] SGHC 18

Companies Winding Up No 422 of 2025

Between

Olea Global Pte Ltd

... Claimant

And

Energe Asia Pte Ltd

... Defendant

JUDGMENT

[Insolvency Law — Winding up — Grounds for petition — Abuse of process]
[Insolvency Law — Winding up — Disputed debt — Triable issues standard]
[Arbitration — Stay of court proceedings — Whether grounds of disputed
debt within scope of arbitration agreement]

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Olea Global Pte Ltd

v

Energe Asia Pte Ltd

[2026] SGHC 18

General Division of the High Court — Companies Winding Up No 422 of 2025

Low Siew Ling JC

9 January 2026

22 January 2026

Judgment reserved.

Low Siew Ling JC:

Introduction

1 This is an application by Olea Global Pte Ltd (“Olea”) to wind up Energe Asia Pte Ltd (“EAPL”) on the ground that EAPL is unable to pay its debts under s 125(1)(e) of the Insolvency, Restructuring and Dissolution Act 2018 (“IRDA”). Olea’s primary case was that the presumption under s 125(2)(a) in IRDA had been triggered as EAPL had failed to satisfy a valid statutory demand for debts exceeding \$15,000 within the requisite three weeks. EAPL sought a stay or dismissal of the application, relying on certain disputes it had raised regarding the debts which it had submitted for arbitration.

2 Having considered parties’ submissions and the available evidence, I order that EAPL be wound up. I am satisfied that the parties’ agreement to arbitrate did not extend to one of the debts that formed the subject of Olea’s

statutory demand, and EAPL has failed to raise triable issues with respect to its disputes on that debt.

Facts

Background to the dispute

3 EAPL is a Singapore-incorporated company engaged in the wholesale of fuel and related products. At all material times, EAPL’s sole director and shareholder was Mr Kingsley Khoo Hoi Leng (“Mr Khoo”).¹

4 Olea claimed that EAPL owed Olea an outstanding principal sum of US\$3,553,823.76 in connection with the receivables due under three invoices:²

(a) Oilmar Invoices: Two invoices issued by EAPL to Oilmar Shipping and Chartering DMCC (“Oilmar”) numbered MSPB-2403009 and MSPB-2403014 (collectively the “Oilmar Invoices”) for the sums of US\$2,011,028.46 and US\$2,012,271.09 respectively.³ The receivables under these invoices were purchased by Olea pursuant to a receivables finance deed between Olea and EAPL, the terms of which were set out in a number of associated agreements including the Amended and Restated Commercial Terms and the Supplier RP Terms (I will refer to these agreements collectively as the “RPD”).⁴ According to Olea, Repurchase Events as defined in the RPD occurred and EAPL

¹ Toh Hsien Min’s First Affidavit in Support of Winding-Up Application filed on 4 November 2025 (“THM1”) at para 5.

² THM1 at para 6.

³ THM1 at Tab 2, pages 20–22.

⁴ THM1 at Tab 3, pages 24–45.

agreed in writing to repurchase the receivables under these invoices, which fell due on 25 April 2024 and 4 May 2024.

(b) Fu Yu Invoice: An invoice issued by Fu Yu Supply Chain Solutions Pte Ltd (“Fu Yu”) to EAPL numbered INV-2403-0009 (the “Fu Yu Invoice”) for the sum of US\$2,258,726.85.⁵ Olea had purchased the receivables due under this invoice from Fu Yu, and Fu Yu gave written notice of the assignment of the receivables to EAPL on 6 March 2024. The amounts due under the Fu Yu Invoice fell due on 3 May 2024.

5 It is undisputed that EAPL failed to make full payment of the sums due under the abovementioned invoices. Parties discussed possible repayment arrangements which eventually culminated in a repayment plan set out in an email from Olea’s Mr Terence Tan (“Mr Tan”) to Mr Khoo on 25 February 2025 (the “Repayment Plan”).⁶ The relevant part of Mr Tan’s email is reproduced below:

Repayment Date	Fu Yu – EA Remaining Invoice – 0009 O/S Amt: USD \$1,458,736.85	EA – Oilmar Total O/S: USD \$3,620,969.59
28 Feb 2025	USD \$140k	
7 Mar 2025	USD \$200k	
14 Mar 2025		USD \$200k
21 Mar 2025	USD \$200k	
28 Mar 2025		USD \$200k

⁵ THM1 at Tab 2, page 22.

⁶ THM1 at Tab 6, pages 62–63.

4 Apr 2025	USD \$200k	
11 Apr 2025		USD \$200k
18 Apr 2025	USD \$200k	
25 Apr 2025		USD \$200k
2 May 2025	USD \$200k	
9 May 2025		USD \$200k
16 May 2025	USD \$200k	
23 May 2025		USD \$200k
30 May 2025	USD \$115k	
30 Jun 2025		USD \$400k
31 Jul 2025		USD \$400k
31 Aug 2025		USD \$400k
30 Sep 2025		USD \$400k
31 Oct 2025		USD \$400k
30 Nov 2025		USD \$400k
31 Dec 2025		USD \$20k + Overdue Interest

6 The Repayment Plan provided for the outstanding receivables due under the invoices to be repaid gradually from 28 February 2025 to 31 December 2025, with overdue interest to be repaid on 31 December 2025.

7 In his email, Olea's Mr Tan requested Mr Khoo to acknowledge the above payment terms. Mr Tan also stated that Olea would draft a repayment agreement regarding the repayment schedule for the Oilmar Invoices, whilst

continuing to communicate with Mr Khoo “to ensure adherence to the above repayment schedule” for the Fu Yu Invoice. Mr Khoo replied to Olea’s email on 26 February 2025 in the following terms: “We’ll best endeavour and commit to your payment plan as advised.”⁷

8 EAPL made some initial payments pursuant to the Repayment Plan before defaulting on the payment scheduled on 9 May 2025 (among others).

9 On 13 June 2025, Olea’s solicitors issued a letter of demand claiming an outstanding sum of US\$4,167,418.39 due under the three invoices, which included the interest payable on the amounts due.⁸

10 The correspondence between the solicitors is set out in some detail below as it shows how EAPL’s case evolved with time.

11 EAPL’s solicitors first replied to Olea’s letter of demand on 25 June 2025 to “categorically deny” that the debts were due. EAPL disputed the debts on “multiple grounds”, raising issues as to the allocation of payments received under the Repayment Plan and “longstanding” discrepancies in the statement of account. These issues were not particularised in the letter, save to state that “payments were not credited to invoices that could have been fully discharged, thereby giving rise to additional interest claims that our clients consider unwarranted”. EAPL also denied that any binding repurchase obligation of the Oilmar Invoices had arisen, and argued that Olea’s demand was “premature” as it had been accepting progressive payments under the

⁷ THM1 at Tab 6, page 62.

⁸ THM1 at Tab 7, pages 65–66.

Repayment Plan without asserting any “formal acceleration or default” under the RPD.⁹

12 On 8 July 2025, Olea’s solicitors responded to address the grounds of dispute raised by EAPL. Olea pointed out that EAPL’s allegations of misallocation of payments and discrepancies in statement of account were wholly unparticularised and that it had, in any case, the right of appropriation as creditor. Olea also explained the basis for its updated demand of US\$4,193,104.02 by annexing a four-page statement of account showing a breakdown of the outstanding principal sum and interest owing under each of the three invoices and a detailed account of how each of the outstanding sums were arrived at after crediting payments received. As for the repurchase obligation of the Oilmar Invoices, Olea exhibited an email exchange in which Mr Khoo had expressly agreed to repurchase the invoices in question. Finally, Olea pointed out that the Repayment Plan was an indulgence which did not alter the fact that the sums due under the three invoices had been overdue for more than a year. There was therefore no “acceleration” to speak of under the RPD.¹⁰

13 EAPL’s solicitors replied on 22 July 2025 to reiterate their concerns about the statement of account, again without further particularisation. EAPL also denied that Mr Khoo’s email represented a binding repurchase obligation as it was subject to further negotiation. Finally, EAPL repeated its claim that Olea’s demand for full payment was premature “especially after having accepted payments over an extended period and having agreed to a repayment schedule”.¹¹

⁹ THM1 at Tab 7, pages 71–72.

¹⁰ THM1 at Tab 7, pages 74–97.

¹¹ THM1 at Tab 7, pages 98–99.

14 On 25 September 2025, Olea issued a statutory demand for the outstanding sum of US\$3,553,823.76 (“the Statutory Demand”). The figure represented the principal sum outstanding, as Olea elected not to pursue its claim for interest at this stage to avoid unnecessary dispute.¹²

15 On 27 October 2025, EAPL’s solicitors responded substantively to the Statutory Demand. In addition to repeating previously raised issues regarding the misallocation of repayments which were not particularised, EAPL also raised the following new disputes regarding the debts:

(a) First, EAPL had “now discovered” that over US\$27m had been wrongly paid by EAPL or its customers to Olea over the course of more than a year, as these amounts were either: (i) unfunded invoices that were never subject to factoring; or (ii) amounts due to other suppliers with no tripartite agreement permitting direct payment to Olea (the “US\$27m Mistaken Payments Counterclaim”).

(b) Second, Olea had failed to refund EAPL a total sum of US\$1.466m. Olea was liable to refund this sum to EAPL as it comprised: (i) the unfinanced portion (10%) of invoices which were only partially factored, and (ii) payments received for non-factored invoices that were never assigned to Olea (the “Failure to Refund Counterclaim”).¹³

(c) Third, the outstanding sum of US\$1,232,854.17 due under the Fu Yu Invoice was not owed to Olea as “[t]here was never any

¹² THM1 at para 20 and Tab 8, pages 112–113.

¹³ Based on the terms of this letter, there appears to be an overlap between the counterclaims as (a)(i) and (b)(ii) both represent payments made to Olea under non-factored invoices. Nevertheless, both were presented as separate and distinct counterclaims.

agreement for EAPL to remit this sum directly to Olea” (the “No Factoring Agreement Dispute”).

Based on the above counterclaims and setting off the amounts due to Olea under the Oilmar Invoices, EAPL took the position that it was Olea which owed a debt of US\$21,267,468.89 to EAPL.¹⁴

16 As the Statutory Demand was not satisfied within three weeks, Olea filed the present winding-up application on 4 November 2025.

Procedural history

17 On 27 November 2025, EAPL filed OA 1362/2025 which was an application for a moratorium under s 64(1) of the IRDA (“OA 1362”). As a result of this application and the automatic 30-day moratorium period, the substantive hearing for this winding-up application was held in abeyance.

18 OA 1362 was dismissed by Mohamed Faizal JC on 23 December 2025. In his *ex tempore* judgment, Faizal JC held that the moratorium application had not been brought in good faith as there was a pattern of suspicious transactions which suggested that EAPL had engaged in “illegitimate asset stripping and the shielding of valuable assets” (*Re Energe Asia Pte Ltd* [2025] SGHC 259 (the “Moratorium Decision”) at [29]).

19 As EAPL had objected to Olea’s standing as a creditor in OA 1362, Faizal JC also had the opportunity to consider the disputes on the debts raised by EAPL, in the course of assessing creditor support for EAPL’s proposed scheme. Faizal JC noted that the timing of EAPL’s purported disputes regarding

¹⁴ THM1 at Tab 7, pages 108–110.

the debts, which it had accepted that it owed until recently, had an “opportunistic feel” (Moratorium Decision at [34]–[35]). The concluding remarks by Faizal JC at [42]–[43] of his judgment merit reproduction here:

... [T]here is a consistent trend of selling assets in seemingly questionable circumstances to associated entities, of deeming valueless ostensibly deeply valuable assets, of downplaying assets with a view, it would seem, to painting as dire a picture as possible of [EAPL’s] financial position, and of many millions suddenly being unaccounted for by virtue of ‘operating expenses’. There are also real concerns that [EAPL] is seemingly looking to ‘right-size’ the creditor base by ... opportunistically disputing the debts to creditors who object to the Application.

If these reservations have any modicum of truth to them, and *prima facie*, I have to confess, they seem compelling when the evidence is seen holistically, then should [EAPL] indeed be insolvent, it may be necessary for it to be liquidated in order to allow for these transactions and relationships with creditors to be investigated. ...

20 With the dismissal of EAPL’s moratorium application, this winding-up application was fixed for hearing before me on 9 January 2026.

The parties’ cases

21 In the present context, it is apposite to first consider the disputes raised by EAPL first before considering Olea’s response.

22 EAPL opposed the winding-up application on grounds that appeared similar to those set out in its letter of 27 October 2025 (see [15] above) but with a few important differences. In his First Affidavit filed on 28 November 2025 (“KKHL1”), Mr Khoo continued to allude to “reconciliation issues” without further particularisation. He also raised the following disputes:

- (a) No Factoring Agreement Dispute: The receivables under the Fu Yu Invoice were not payable to Olea as “there was no tripartite

agreement or factoring arrangement under which [EAPL] was obliged to pay [Olea] directly”¹⁵.

(b) US\$27m Mistaken Payments Counterclaim: Instead of claiming that this sum represented mistaken payments by EAPL *or its customers* (which is what EAPL’s letter of 27 October 2025 stated), Mr Khoo now alleged that it was EAPL’s accounts department that had “inadvertently” paid a total of US\$27,230,699.14 to Olea for invoices issued by Fu Yu, even though there was no tripartite agreement or factoring arrangement under which EAPL was obliged to pay the Olea directly. Setting off these payments against the amounts due to Olea pursuant to the Oilmar Invoices, Olea owed EAPL the sum of US\$21,267,468.89.

(c) Customers’ Mistaken Payment Counterclaim: EAPL’s customers had overpaid or mistakenly paid Olea in full for invoices that were either not factored at all, or which were only partially factored. This was again slightly different from what was claimed in EAPL’s letter of 27 October 2025 as the Unrefunded Sums Counterclaim, since EAPL now particularised that these payments were made by its customers to Olea. For accuracy, I now define this as the Customers’ Mistaken Payment Counterclaim.

23 In light of the abovementioned disputes, EAPL claimed that the winding-up application was an abuse of process as it was an attempt to bypass the parties’ agreed dispute resolution mechanism, *ie*, arbitration. While this was not made clear in Mr Khoo’s First Affidavit, the exhibited Notice of Arbitration

¹⁵ KKHL1 at para 8.

from EAPL to Olea dated 27 November 2025¹⁶ referred to the clause 14.2 of the Supplier RP Terms in the RPD (the “RPD Arbitration Clause”), which provided:

Arbitration: Any dispute arising out of or in connection with the Transaction Documents, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration administered by the Singapore International Arbitration Centre (“**SIAC**”) in accordance with the Arbitration Rules of the Singapore International Arbitration Centre (“**SIAC Rules**”) for the time being in force, which rules are deemed to be incorporated by reference to this clause. The seat of the arbitration shall be Singapore. The Tribunal shall consist of one arbitrator. The language of the arbitration shall be English.

[emphasis in original]

24 Mr Khoo subsequently filed a second affidavit on 12 January 2026 (“KKHL2”)¹⁷ to explain that EAPL was “fully engaged in prosecuting the arbitrations” and had already paid the requisite deposits and filing fees.¹⁸

25 Olea vigorously contested EAPL’s position regarding the debts. Relying on the evidence in its supporting affidavit and the parties’ affidavits in OA 1362,¹⁹ Olea made the following points:

(a) First, the RPD Arbitration Clause could not apply to the debt arising out of the Fu Yu Invoice as those receivables were completely independent of, and did not arise in connection with, any transactions between the parties under the RPD. As for the Oilmar Invoices, EAPL’s

¹⁶ KKHL1 at Tab 3, pages 71–74.

¹⁷ KKHL2 was originally filed on 8 January 2026 at 8.28pm, under cover of EAPL’s solicitor’s affidavit.

¹⁸ KKHL2 at paras 9 and 15 respectively.

¹⁹ Olea filed a Notice of Intention to Refer to these affidavits on 6 January 2026. EAPL did not raise any objections to the references, and in fact relied on these same affidavits in its correspondence to the court after the hearing.

own letter and affidavit expressly admitted to both liability and quantum under these invoices (see [15] and [22(b)] above) so there was no dispute to begin with. As such, the applicable test was whether the purported disputes raised any triable issues: *AnAn Group (Singapore) Pte Ltd v VTB Bank (Public Joint Stock Co)* [2020] 1 SLR 1158 (“*AnAn*”) at [25].

(b) EAPL’s alleged grounds for dispute failed to raise any triable issues. The No Factoring Agreement Dispute was a non-starter as the assignment of the receivables under the Fu Yu Invoice was supported by documentary evidence which EAPL did not refute. All the requirements of a valid assignment had been complied with.

(c) As for the US\$27m Mistaken Payments Counterclaim, the alleged overpayments were completely unparticularised. EAPL did not even identify the alleged invoices pursuant to which these payments were made, let alone explain why these payments were mistaken. In any case, based on the figures quoted in Mr Khoo’s First Affidavit, Olea had traced and verified that most of these payments were in fact made pursuant to express payment instructions in writing or pursuant to the Repayment Plan.

(d) The Customers’ Mistaken Payments Counterclaim was also wholly unmeritorious as the allegedly mistaken payments were made pursuant to EAPL’s express instructions. EAPL had agreed in writing to pledge these unfunded payments to reduce the amounts outstanding to Olea.

(e) In any event, the eleventh-hour disputes raised by EAPL were an abuse of process which fell squarely within the examples cited by the Court of Appeal in *AnAn* at [99]. First, EAPL had expressly admitted to

both liability and quantum regarding the Oilmar and Fu Yu Invoices by agreeing to the terms of the Repayment Plan. Second, given the concerns raised by Faizal JC in the Moratorium Decision ([18] *supra*), this was precisely the kind of case in which assets had gone missing and there was an urgent need to appoint independent persons to recover and preserve the company's assets.

(f) Finally, based on EAPL's own evidence in OA 1362, it was insolvent and unable to pay its debts: s 125(1)(e) IRDA. The balance sheet exhibited by EAPL in OA 1362 showed that it was seriously cash flow insolvent,²⁰ and its dire financial situation was the entire premise upon which EAPL had sought a moratorium.

Issues to be determined

26 The issues to be determined in this winding-up application are therefore:

- (a) whether the disputes regarding the debts under all three invoices in the Statutory Demand fell within the scope of a valid arbitration agreement between the parties;
- (b) if the answer to (a) is no, whether EAPL's grounds of dispute raised triable issues as to the debts; and
- (c) if the answer to (a) is yes, whether EAPL's grounds of dispute were nevertheless raised in abuse of the court's process; and
- (d) if necessary, whether the application should be granted in any event as EAPL is insolvent.

²⁰ First Affidavit of Kingsley Khoo Hoi Leng filed in OA 1362 on 5 December 2025 at Tab 8, pages 253–254, found in the Claimant's Core Bundle ("CCB") at pages 280–281.

Issue 1: Whether the disputes regarding the debts under all three invoices fell within the scope of a valid arbitration agreement

Applicable standard of review

27 It was evident that this was one of the most critical issues for determination. If the grounds of dispute regarding the debts under all three invoices fell within the scope of a valid arbitration agreement between parties, the *prima facie* standard of review would apply and the winding-up application would be stayed or dismissed unless the disputes were raised in abuse of the court’s process: *AnAn* at [91] and [98]–[99]. If, on the other hand, the disputes regarding one or more of the invoices (each of which was well above statutory threshold) fell outside the scope of any agreement to arbitrate, EAPL would not be able to avert winding up unless it could meet a higher threshold and raise triable issues by showing that there existed a substantial and *bona fide* dispute as to the debts: *Pacific Recreation Pte Ltd v S Y Technology Inc* [2008] 2 SLR(R) 491 at [23] and [25].

28 A key distinction between the *prima facie* standard of review and the triable issue standard is that when the latter applies, the court has to thoroughly examine the evidence and critically consider the merits of those defences to determine if they are frivolous. Where the former standard applies, the debtor only has to assert a defence giving rise to a dispute falling within the scope of the parties’ arbitration agreement, and the court does not inquire into the merits of that defence: *Mercantile & Maritime Investments Pte Ltd v Iceberg Energy Pte Ltd* [2024] 3 SLR 628 (“*Mercantile*”) at [60].

The RPD Arbitration Clause

29 The RPD Arbitration Clause provided that “any dispute *arising out of or in connection with the Transaction Documents*, including any question

regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration ...” [emphasis added]. “Transaction Documents” was in turn defined in the Amended and Restated Commercial Terms of the RPD to mean the terms comprising the RPD and each Purchase Request.²¹ “Purchase Request” in this contractual context, as used at Clause 2.1 of the Supplier RP Terms and defined in the Supplier RP Definitions, referred to an offer from EAPL to sell and assign receivables to Olea.²²

30 What is important to note is that, as drafted, the RPD Arbitration Clause was clearly intended to apply to disputes arising from transactions *between the parties*. However, the debt due for the receivables under the Fu Yu Invoice (as claimed under the Statutory Demand) did not arise from any transaction between Olea and EAPL. Instead, it was founded upon a *debt owed by EAPL to Fu Yu*, which Fu Yu had assigned to Olea pursuant to a *separate receivables purchase contract between Olea and Fu Yu*. It is therefore difficult to see how the RPD Arbitration Clause could be said to apply to any disputes raised regarding the Fu Yu Invoice receivables.

31 The definition of “Transaction” in the Supplier RP Definitions, which formed a part of the RPD, reinforced this position. It provided that “Transaction” refers to “any transaction *between the Parties* for the sale and purchase of Receivables under the Transaction Documents.” [emphasis added].²³ There was no transaction between the parties in so far as the assignment of the Fu Yu Invoice receivables was concerned.

²¹ THM1 at Tab 3, pages 27–28.

²² THM1 at Tab 3, pages 29 and 43.

²³ THM1 at Tab 3, page 45.

32 At the hearing, I questioned counsel for EAPL as to how the RPD Arbitration Clause could potentially apply to any disputes arising out of the Fu Yu Invoice in light of the above difficulties. In response, counsel sought an adjournment and leave for Mr Khoo to file another affidavit to more fully explain EAPL's position on the Fu Yu Invoice.

33 I rejected EAPL's request for another opportunity to clarify its own case. This winding-up application was filed on 4 November 2025 and had already been held in abeyance for two months pending EAPL's failed attempt to obtain a moratorium. The evidence that Olea was relying on to establish the debts had been disclosed to EAPL at the outset. Bearing in mind that it was EAPL which had raised the issue of arbitration in its affidavits objecting to the winding-up application, it is surely incumbent on EAPL to particularise and substantiate its position in those same affidavits.

34 I would add that EAPL had ample opportunities to put forward its evidence. I had already granted EAPL the indulgence of considering Mr Khoo's Second Affidavit, even though it was filed the night before the hearing (under cover of their solicitor's affidavit), well outside the timelines stipulated under rr 19 and 72(1) of the Insolvency, Restructuring and Dissolution (Corporate Insolvency and Restructuring) Rules 2020.

35 In any case, the scope of the RPD Arbitration Clause and whether and how it could be construed to apply to the Fu Yu Invoice were legal questions that could be fully answered based on the contractual documents before me. I did not see how Mr Khoo could possibly provide any factual evidence that would affect the proper construction of the RPD Arbitration Clause at this stage, nor did counsel explain how Mr Khoo's further affidavit could do so beyond suggesting that the term "Transaction Documents" was not defined in the

affidavits (which, as noted at [29] above, was incorrect).

36 After the hearing on 9 January 2026, EAPL’s solicitors wrote to the court on 12 January 2026 to make additional submissions as to the applicability of an arbitration clause to the Fu Yu Invoice. Olea’s solicitors replied to these submissions by letter dated 14 January 2026. EAPL’s solicitors wrote to respond on 16 January 2026 and Olea’s solicitors replied again on the same day. Such protracted litigation by correspondence ought to be discouraged, especially when there has been a full hearing in which both parties had filed submissions and had the opportunity to fully ventilate their arguments. Nevertheless, as Olea had the opportunity to address the additional submissions made by EAPL, and in the interests of justice, I considered the additional points raised in these letters.

The IPUD Arbitration Clause

37 In its letter dated 12 January 2026, EAPL purported to rely on a *different* arbitration clause for its disputes on the Fu Yu Invoice receivables — specifically, an arbitration clause in an Irrevocable Payment Undertaking Deed (the “IPUD”) dated 13 December 2023 that was issued by EAPL to Olea and copied to Fu Yu. The IPUD was exhibited in one of Olea’s affidavits filed in OA 1362.²⁴

38 In the IPUD, EAPL acknowledged that Fu Yu may from time to time assign receivables to Olea. EAPL undertook to “create and assume ... an independent, irrevocable, unconditional, legal, valid, transferable and binding obligation” to pay any Fu Yu receivables specified in a notice of assignment

²⁴ First Affidavit of James George Pedley filed by Olea in OA 1362 on 11 December 2025 (“JGP1”) at Tab 22, pages 195–196, found in CCB at pages 248–249.

directly to Olea. The material part of paragraph 9 of the IPUD (the “IPUD Arbitration Clause”) stated:

Any dispute arising out of or in connection with this Deed, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration administered by the Singapore International Arbitration Centre (“**SIAC**”) in accordance with the Arbitration Rules of the SIAC (“**SIAC Rules**”) for the time being in force, which rules are deemed to be incorporated by reference to this Paragraph. ...

[emphasis in original]

39 While the IPUD Arbitration Clause appeared at first blush to support EAPL’s case, there are three reasons why I am ultimately unpersuaded that the purported disputes arising from the Fu Yu Invoice were the subject of any arbitration agreement between the parties.

40 First, as Olea’s solicitors noted in their 14 January 2026 response to EAPL’s letter, the IPUD was a unilateral document that was only executed by one party (EAPL) and created largely unilateral obligations on only one party (EAPL). EAPL failed to establish how, on a proper construction, the IPUD Arbitration Clause amounted to an enforceable agreement to arbitrate between Olea and EAPL: see s 4(1) of the Arbitration Act 2001 and s 2A(1) of the International Arbitration Act 1994.

41 Second, even if there is an enforceable arbitration clause under the IPUD, Olea would only be obliged to arbitrate “any dispute arising out of or in connection with this Deed”. Under the terms of the IPUD, EAPL assumed an *independent* obligation to pay Olea any sums due under Fu Yu invoices. As a matter of law, this independent obligation to pay under the IPUD was distinct from Olea’s separate right to payment of the underlying receivables arising out of a statutory assignment of the debt due.

42 Olea’s consistent case in these winding-up proceedings was that the receivables under the Fu Yu invoice had been validly assigned to it pursuant to s 4(8) of the Civil Law Act 1909 (“CLA”). In other words, Olea is not relying on EAPL’s independent obligation to pay *under the IPUD* to claim the Fu Yu Invoice receivables. EAPL did not explain how a dispute as to the validity of a statutory assignment of the receivables made under s 4(8) of the CLA came within the terms of IPUD Arbitration Clause, save to say that the claim was clearly “connected to the [IPUD]”. It suffices to state that while the underlying subject matter of the assignment and the IPUD may be the same — the Fu Yu receivables — this does not make any dispute as to the statutory assignment of the receivables necessarily one “arising out of or in connection with the [IPUD]”.

43 Finally, the IPUD directly contradicts EAPL’s position that there was no tripartite agreement or factoring agreement under which EAPL was obliged to pay Olea directly. Having categorically denied on affidavit that any such agreement exists, it is not open to EAPL to, in the same breath, rely on a purported arbitration clause in the very same agreement: *Founder Group (Hong Kong) Ltd v Singapore JHC Co Pte Ltd* [2023] 2 SLR 554 (“*Founder Group*”) at [61]–[63]. This is not a case where EAPL had conceded that a factoring agreement existed but disputed the debt owed on other grounds (*eg*, that the agreement was vitiated by fraud or duress). EAPL had repeatedly and positively asserted that “there was no tripartite agreement or factoring arrangement under which EAPL was obliged to pay Olea directly”. In other words, EAPL’s case had always been that there was no such agreement.

44 Now that it needed to rely on the IPUD Arbitration Clause, EAPL attempted to distinguish its case from the facts of *Founder Group*. In its further letter to the court dated 16 January 2026, EAPL clarified that it was not

impugning the IPUD in its entirety but was only raising a dispute as to the conditions that give rise to liability under the IPUD. What it left unexplained was how this new position was consistent with its previous position on affidavit, which was that there was never any such agreement. In my view, EAPL could not, when confronted with the limited scope of the RPD Arbitration Clause it initially relied on, seek to rely on a separate arbitration clause in another agreement that it had already disclaimed the existence of. I would reject this argument for the same reasons as those enunciated by the Court of Appeal in *Founder Group* at [59]–[60].

45 It follows from the above that any disputes relating to the debt under the Fu Yu Invoice do not fall within the scope of any agreement to arbitrate. The onus is thus on EAPL to demonstrate that it has raised triable issues in respect of the debt.

Issue 2: Whether EAPL’s grounds of dispute on the Fu Yu Invoice raised triable issues

46 To raise triable issues to resist a winding-up application, a debtor must show that there exists a substantial and *bona fide* dispute, whether in relation to a dispute over the debt claimed or a cross-claim. A substantial and *bona fide* dispute is one where the debtor’s reasons for not paying the debt are honestly believed to exist and based on reasonable grounds, which are not frivolous. There must be so much doubt and question about the liability to pay based on the evidence that the court sees that there is a question to be decided: *Mercantile* ([28] *supra*) at [58].

No Factoring Agreement Dispute

47 In so far as EAPL has sought to cast doubts on the validity of the debt

due under the Fu Yu Invoice, this can be dealt with quickly. As stated earlier, EAPL's primary defence was that there was no tripartite agreement or factoring agreement which obliged EAPL to pay Olea directly.

48 In its supporting affidavit, Olea produced documentary evidence to show that the Fu Yu Invoice was assigned to Olea, and that Fu Yu issued a notice of assignment to EAPL in writing on 1 December 2023 expressly instructing EAPL to pay the sums due under the invoice to Olea.²⁵ This satisfied all the requirements for a valid assignment under s 4(8) of the CLA: see *BXH v BXI* [2020] 1 SLR 1043 at [141]–[148]. Somewhat tellingly, EAPL did not address or otherwise deal with these assignment documents in Mr Khoo's affidavits. Similarly, counsel for EAPL did not raise any legal arguments to dispute that a valid assignment had taken place, whether at the hearing or in her subsequent letters to the court. EAPL has plainly failed to show why or how the assignment would be invalid. For this reason, I find that the No Factoring Agreement Dispute does not raise any triable issue.

Customer's Mistaken Payments Counterclaim

49 This leaves EAPL's two purported counterclaims.

50 Taking the Customers' Mistaken Payments Counterclaim first, Mr Khoo's First Affidavit referred to three specific invoice payments made by EAPL's customers to Olea for invoices that EAPL claimed were never factored at all: two payments by Chimbusco Pan Nation Petro-Chemical ("Chimbusco") for \$459,108.16 (MSPB-2406008) and \$592,602.36 (EAPM-2407003) and one by KPI Ocean Connect Global Accounts Pte Ltd ("KPI") for \$268,688.50

²⁵ THM1 at Tab 5, pages 55–56.

(MSPB-2406004).²⁶ However, the email correspondence between the parties showed that EAPL had offered to pledge these invoices on 17 May 2024 to reduce the amounts owing to Olea. Olea responded by proposing to place a charge on the invoices such that the unfunded payments would be paid directly to it. On behalf of EAPL, Mr Khoo had in his email reply indicated “AGREE”.²⁷ It is therefore disingenuous for EAPL to now suggest that these were somehow “mistaken” payments when this is contradicted by their own documents.

51 As for the other invoices which EAPL claimed Olea had failed to refund the unfactored portion of (as “[Olea] had only financed 90%”),²⁸ the simple answer is that even if these claims were made out, their total value does not come anywhere close to moving the quantum of the debt due under the Fu Yu Invoice below the statutory threshold.

US\$27m Mistaken Payments Counterclaim

52 Turning to the US\$27m Mistaken Payments Counterclaim, Mr Khoo in his First Affidavit listed 50 payments made to Olea from 30 January 2024 to 9 May 2025 which EAPL claimed were made “inadvertently”.²⁹ Unfortunately, this affidavit was entirely bereft of any particulars to substantiate its claim that these payments were in fact mistaken payments for which it was (presumably) entitled to restitutionary relief. The affidavit simply repeated EAPL’s usual line that these payments were mistaken as “there was no tripartite agreement or factoring arrangement under which [EAPL] was obliged to pay [Olea] instead

²⁶ KKHL1 at Tab 2, page 69.

²⁷ Second Affidavit of James George Pedley filed under solicitor’s covering affidavit of Chew Jing Wei by Olea in OA 1362 on 22 December 2025 (“JGP2”) at pages 95–99, found in CCB at pages 148–152.

²⁸ KKHL1 at para 9.

²⁹ KKHL1 at para 11 and Tab 2, pages 66–67.

of [Fu Yu]”.³⁰ The specific payments made to Olea were then listed in a table, which did not identify which invoices these payments related to, let alone explain how they were “mistaken” payments. This left Olea with the unenviable task of having to make EAPL’s case for them in order to refute it.

53 While EAPL is correct that it is an abuse of process for a creditor to use the winding-up process to enforce a disputed debt, this does not mean that a debtor can simply raise bare allegations without providing the necessary particulars to demonstrate that a *bona fide* counterclaim exists. In the words of Jessel MR in *Re Great Britain Mutual Life Assurance Society* (1880) 16 Ch D 246 (at 253):

... [I]t is not sufficient for the Respondents, upon a petition of this kind, to say “We dispute the claim”. They must bring forward a *prima facie* case which satisfies the Court that there is something which ought to be tried ...

54 In the context of an alleged counterclaim for mistaken payments, if all that a debtor needed to do to establish triable issues was point to a previous payment and make a bare allegation that the payment was “mistaken” because there was no legal obligation to pay, this would be an avenue for widespread abuse.

55 In circumstances where a debtor seeks to rely on a mistaken past payment to establish a counterclaim and resist winding up, the onus must be on the debtor to provide the necessary particulars and evidence to substantiate how and why the specific payment was mistaken. The evidence need not be conclusive or even compelling, but there must at least be sufficient particulars and probative material for the court to assess that the counterclaim is a plausible

³⁰ KKHL1 at para 11.

one that should be tried.

56 Unfortunately, EAPL has not even attempted to provide *any* particulars or supporting evidence in its affidavits. This alone is sufficient for me to find that this counterclaim does not raise triable issues. It is therefore unnecessary for me to address Olea’s attempt to trace each of these payments to refute the allegations, save to note that Olea has provided evidence to show that many of these alleged mistaken payments were in fact either made pursuant to: (a) express payment instructions in writing for EAPL to pay the sums to Olea; or (b) the Repayment Plan, which EAPL had affirmed and repeatedly relied on in its correspondence.

57 When asked to address me on the issues raised by Olea with regard to EAPL’s counterclaims at the hearing, counsel for EAPL again sought an adjournment of the hearing for Mr Khoo to file another affidavit. I declined her request as it was EAPL which had raised these counterclaims to begin with, and EAPL had ample time provide the necessary particulars and evidence to support its claims. It is inappropriate for EAPL to avoid particularising its counterclaims in any material way at the outset and wait for Olea to trace the origins of those payments before seeking to introduce more evidence to refute Olea’s arguments.

58 There was no merit to counsel’s contention that EAPL was taken by surprise by Olea’s detailed objections to the counterclaims, since these had already been set out at length in Olea’s affidavits filed in OA 1362 on 11 December 2025 and 22 December 2025.³¹ It did not escape the court’s attention that, by repeatedly seeking an adjournment to file another affidavit,

³¹ JGP1 at paras 7–31, found in CCB at pages 69–78; JGP2 at paras 10–14, found in CCB at pages 142–143.

EAPL was effectively seeking to delay the determination of this winding-up application, which was precisely what it had failed to achieve in OA 1362.

59 I would add that EAPL has not explained how it could have, over the course of more than a year, made so many mistaken payments amounting to such a substantial sum. This is especially puzzling given that, by EAPL's own admission in OA 1362, it was already facing financial difficulties during this period. What is also questionable is how, even after receiving Olea's letter of demand and raising various grounds of dispute as early as 24 June 2025, EAPL omitted to make any mention of such a large sum of mistaken payments which would have entirely extinguished the debts (and in fact rendered Olea liable to pay EAPL more than US\$21m). It was only on 27 October 2025 that EAPL raised these mistaken payments for the first time. While it is of course theoretically possible that EAPL only discovered these mistakes at that point, it strains credulity that such major accounting errors were made on a repeated basis over such a long period of time, only to be serendipitously discovered soon after the Statutory Demand was issued on 25 September 2025.

60 In light of the above, I find that EAPL has not discharged its burden of establishing that its purported counterclaims are sufficient to raise any triable issues in relation to the debt due under the Fu Yu Invoice. It follows from this that Olea has established that it is a creditor of EAPL for a debt in excess of \$15,000, which was the subject of a valid statutory demand that was not satisfied within the requisite three weeks. The presumption of insolvency under s 125(2)(a) IRDA has therefore been triggered. Having regard to the evidence, I see no reason why I should not exercise my discretion to wind up the company.

61 It is therefore not necessary for me to deal with the remaining issues. I will nevertheless briefly address Issue 3 for completeness, as it was the subject

of substantive arguments before me.

Issue 3: Whether EAPL’s grounds of dispute were raised in abuse of the court’s process

Applicable principles

62 Even if all the disputes raised by EAPL fell within the scope of an agreement to arbitrate, I would have declined to stay or dismiss the winding-up application as I was prepared to find that the disputes were being raised in abuse of the court’s process: *AnAn* ([25(a)] *supra*) at [56].

63 I accept that the threshold for a finding of abuse of process is high, and this mechanism should not be used as a gateway for parties to introduce arguments on the merits of the underlying disputes: *AnAn* at [99]. Nevertheless, EAPL’s case exhibits classic markers of abuse of process that cannot be ignored.

EAPL’s admissions and attempts at prevarication

64 One example of abuse raised in *AnAn* was where a disputed debt has been admitted as to liability and quantum. While the Court of Appeal did not foreclose the possibility that a debtor in such circumstances may still have genuine disputes as to the debt, the court ought to refuse a stay in the absence of a clear and convincing reason for the change of position: *AnAn* at [94].

65 In the present case, EAPL had explicitly agreed to the terms of the Repayment Plan, which not only set out the outstanding sums owed to the Claimant under the Oilmar and Fu Yu Invoices, but also allocated each specific progress payment to the respective invoices. EAPL had then gone on to make payment in accordance with the Repayment Plan. In fact, EAPL’s solicitors continued to affirm the Repayment Plan in their letters of 25 June 2025 and

27 July 2025, when they argued that the Claimant had no basis to “accelerate” the payments due. It is therefore difficult to escape the conclusion that EAPL has admitted to the debts on both liability and quantum.

66 EAPL relied on *Tjong Very Sumito v Antig Investments Pte Ltd* [2009] 4 SLR(R) 732 to argue that it was entitled to prevaricate, because even previously admitted claims may evolve into disputes that warrant arbitration in accordance with the existing agreement to arbitrate (at [62]). However, this overlooks the Court of Appeal’s guidance in *AnAn* that a debtor in such circumstances should offer a clear and convincing reason for any *volte-face*. Notably, EAPL did not offer any explanation for resiling from the debts it had previously admitted in the Repayment Plan, beyond vague allusions as to misallocation of payments that were never particularised (and which appeared to ignore the clear allocation of payments in the Repayment Plan itself). Even if I accepted its argument that there was some misallocation, EAPL did not deny that it had defaulted on the Repayment Plan. A debt under a single missed instalment would have been sufficient to comfortably cross the statutory threshold.

67 I accept EAPL’s point that the email from Olea’s Mr Tan had stated that a repayment agreement regarding the Repayment Schedule for the Oilmar Invoices would be drafted, but no such agreement was ever prepared. This may have been sufficient for EAPL to argue that any admission as to the Oilmar Invoices was not sufficiently clear and unequivocal, but for the fact that EAPL appears to admit the debts due under the Oilmar Invoices to this day.

68 In both EAPL’s letter dated 27 October 2025 and Mr Khoo’s First Affidavit, EAPL expressly sets off US\$7,429,699.32 due to Olea under

“Factored Oilmar invoices” against its alleged counterclaims.³² While Mr Khoo’s First Affidavit was unclear as to whether these were the same Oilmar Invoices in the Statutory Demand, EAPL clearly concedes that a very large sum remains due to Olea under factored Oilmar invoices and does not suggest that there are other Oilmar invoices apart from the Oilmar Invoices in the Statutory Demand. This could also not have been a calculation based on the *assumption* that Olea’s disputed debts were made out, since the Fu Yu Invoice receivables were conspicuously left out of the equation.

Bona fides of dispute

69 The *bona fides* of the debtor in raising the dispute are also relevant in determining whether there has been an abuse of process: *AnAn* ([25(a)] *supra*) at [94]. In the present case, the manner in which EAPL raised its purported grounds of dispute is also concerning and suggestive of its primary purpose, which appears to be to stave off liquidation by any means possible.

70 The correspondence between the parties shows that EAPL only started to raise disputes as to the debts after it defaulted on the Repayment Plan and Olea issued its letter of demand. The detailed account of EAPL’s correspondence at [9]–[15] above serves to illustrate how EAPL’s case constantly morphed as it sought in each successive letter to find more reasons to justify why the debts were disputed. EAPL was first concerned about allocation of payments. It denied its liability to pay under the Oilmar Invoices and affirmed the Repayment Plan. After the Statutory Demand was issued, EAPL suddenly discovered numerous mistaken payments made to Olea by EAPL and its customers over the course of more than a year, and disputed its

³² THM1 at pages 108–110; KKHL1 at para 13.

liability to pay the Fu Yu Invoice receivables for the first time by claiming that there was no factoring agreement. The particulars of its counterclaims continued to shift in Mr Khoo's First Affidavit. At the hearing, counsel for EAPL also sought to cast doubt on the binding nature of the Repayment Plan that EAPL had previously affirmed, arguing that it was subject to an agreement that was never drafted. Even after the hearing, EAPL's case continued to shift. When faced with the limits of the RPD Arbitration Clause it had initially relied on to claim that the disputes should be the subject of arbitration, EAPL sought to qualify its previously asserted position that there was no factoring agreement between EAPL and Olea. The protean nature of EAPL's defence is troubling to say the least.

71 The picture that emerges is unmistakeably one of a debtor making things up as it goes along, raising as many disputes as it can think of in the hopes that just one of them will carry sufficient weight to stymie these winding-up proceedings. Coupled with the indications of asset stripping and unexplained fund dissipation that Faizal JC had observed in OA 1362 (see [18]–[19] above), there are clearly serious and substantiated concerns about EAPL's financial situation which justify the invocation of the insolvency regime.

Conclusion

72 For the above reasons, I grant an order in terms of CWU 422/2025.

Low Siew Ling
Judicial Commissioner

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