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

[2026] SGHC 100

Originating Application No 200 of 2026

Between

JXC Pte Ltd

… Applicant

And

Thye Chuan Engineering
Construction Co Pte Ltd

… Respondent

JUDGMENT

[Arbitration] — [Award] — [Recourse against award] — [Setting aside] — [Whether tribunal breached natural justice by depriving party of reasonable opportunity to respond to case against it]

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JXC Pte Ltd
v
Thye Chuan Engineering Construction Co Pte Ltd

[2026] SGHC 100

General Division of the High Court — Originating Application No 200 of 2026
Andre Maniam J
30 April 2026

21 May 2026 Judgment reserved

Andre Maniam J:

Introduction

1 The applicant ("JXC") applied to set aside aspects of an arbitral award in favour of the respondent ("Thye Chuan") based on breach of natural justice. JXC contended that, on those aspects, the tribunal's reasoning was unpleaded, not in evidence, not argued, and not reasonably foreseeable: accordingly, JXC was deprived of any opportunity to respond to that reasoning. Thye Chuan disputed this.

2 This is my decision on JXC's setting-aside application. It is common ground that there is no need to anonymise the parties' names, or redact identifying details.

Background

3 MEOD Pte Ltd ("MEOD") engaged Thye Chuan as main contractor for a construction project; Thye Chuan in turn engaged JXC as sub-contractor for part of the works. Disputes arose between Thye Chuan and JXC which were submitted to arbitration before a single arbitrator, Ms Lesley Tan. In the arbitration, Thye Chuan was the claimant and JXC was the respondent. Besides resisting Thye Chuan's claims, JXC raised counterclaims against Thye Chuan.

4 The majority of both the claims and counterclaims failed. The arbitrator found in favour of Thye Chuan for the sums of $71,575.65 and $5,136, and in favour of JXC for three sums totalling $47,808.20. That resulted in a net balance of $28,903.45 in favour of Thye Chuan, which was awarded to Thye Chuan together with interest. On costs, the arbitrator decided that the parties should bear their own legal costs, and share equally the costs of the arbitration.

5 In this setting-aside application, JXC seeks to set aside the following paragraphs of the award: 188 to 200, 203 to 206, 243 to 245, 248, 250 and 251(a), (c), (i), (j), (k). Those paragraphs cover the sums of $71,575.65 and $5,136 that the arbitrator found in favour of Thye Chuan for, and the arbitrator's costs orders. If JXC succeeds, Thye Chuan would be left owing JXC $47,808.20 (the total of the three sums that the arbitrator found in favour of JXC for).

6 The arbitrator allowed Thye Chuan the sum of $71,575.65 in respect of Thye Chuan's claim for hiring equipment and manpower to complete the Sub-Contract Works: [197] to [200] and [251(a)] of the award. Thye Chuan had claimed $175,200, relying on invoices from Fulta Construction Pte Ltd ("Fulta"), the third-party contractor who had been engaged in that regard. Fulta's invoices totalled $143,151.29, to which Thye Chuan added a "buffer" of

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some $30,000 for projected additional costs, to arrive at its claim amount of $175,200. The arbitrator allowed Thye Chuan only $71,575.65 (half of Fulta's invoiced amount of $143,151.29), given the lack of clarity as to Fulta's scope of works: [200] of the award.

7 Fulta's invoices, however, were not issued to Thye Chuan; the invoices were issued to MEOD. Nevertheless, the arbitrator "allow[ed] [Thye Chuan] to rely on the invoices issued by Fulta to MEOD as proof of losses suffered *de facto* by [Thye Chuan]" ([194] to [196] of the award, at [196]).

8 JXC says that the arbitrator's reasoning that expenses incurred by MEOD were *de facto* losses suffered by Thye Chuan, was unpleaded, not in evidence, not argued, and not reasonably foreseeable: accordingly, JXC had no opportunity to respond to that reasoning, and there was a breach of natural justice.

9 The arbitrator allowed Thye Chuan the sum of $5,136 ($4,800 plus 7% GST) in respect of Thye Chuan's claim for post surveyor costs to produce a survey of the Project Site based on revised soil levels: [203] to [206] and [251(c)] of the award. For this claim too, Thye Chuan relied on an invoice that was addressed to MEOD, albeit this invoice was marked for the attention of Thye Chuan's Mr Lui Teow Teng: [203] of the award. Again, the arbitrator allowed Thye Chuan to rely on an invoice addressed to MEOD as proof of losses suffered *de facto* by Thye Chuan: [203] of the award, citing [194] to [196]. JXC says that this decision too was in breach of natural justice.

10 JXC also seeks to set aside the arbitrator's decision on costs, on the basis that it was influenced by the same objectionable reasoning.[1]

Breach of natural justice

11 The central issue in this case is whether the arbitrator's reasoning – that expenses incurred by MEOD were *de facto* losses suffered by Thye Chuan – involved a breach of natural justice.

12 Under s 48(1)(a)(vii) of the Arbitration Act 2001 (the "Act"), an award may be set aside by the Court if the party who applies to the Court to set aside the award proves to the satisfaction of the Court that "a breach of the rules of natural justice occurred in connection with the making of the award by which the rights of any party have been prejudiced".

13 JXC's setting-aside application invoked that provision of the Act. In JXC's written submissions, however, it also cited s 48(1)(a)(iv) of the Act, which allows for setting-aside if "the award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or contains decisions on matters beyond the scope of the submission to arbitration." This was objected to at the hearing, in response to which JXC's counsel confirmed that it would only rely on breach of natural justice under s 48(1)(a)(vii) of the Act.

14 The key principles may be set out as follows:

(a) "…a party challenging an arbitration award as having contravened the rules of natural justice must establish: (a) which rule of

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1 Applicant's submissions at [60].

natural justice was breached; (b) how it was breached; (c) in what way the breach was connected to the making of the award; and (d) how the breach prejudiced its rights": *Soh Beng Tee & Co Pte Ltd v Fairmount Development Pte Ltd* [2007] 3 SLR(R) 86 ("*Soh Beng Tee*") at [29]; see also *Vietnam Oil and Gas Group v Joint Stock Company (Power Machines – ZTL, LMZ, Electrosila Energomachexport)* [2025] 2 SLR 273 ("*Vietnam Oil*") at [35].

(b) "Parties to arbitration have, in general, a right to be heard effectively on every issue that may be relevant to the resolution of a dispute. The overriding concern … is fairness. The best rule of thumb to adopt is to treat the parties equally and allow them reasonable opportunities to present their cases as well as to respond. An arbitrator should not base his decision(s) on matters not submitted or argued before him. In other words, an arbitrator should not make bricks without straw. Arbitrators who exercise unreasonable initiative without the parties' involvement may attract serious and sustainable challenges": *Soh Beng Tee* at [65(a)].

(c) "…one facet of the fair hearing rule requires that a tribunal's chain of reasoning should have sufficient nexus to the case advanced by the parties and be one, of which the parties had reasonable notice that the tribunal could or might adopt. In this vein, a chain of reasoning is open to a tribunal if: (a) it arises from the party's express pleadings; (b) it is raised by reasonable implication by a party's pleadings; (c) it does not feature in a party's pleadings but is in some other way brought to the opposing party's actual notice; or (d) the links in the chain flow reasonably from the arguments actually advanced by either party or are related to those arguments": *Vietnam Oil* at [36].

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(d) "In so far as the right to be heard is concerned, the failure of an arbitrator to refer every point for decision to the parties for submissions is not invariably a valid ground for challenge. Only in instances such as where the impugned decision reveals a dramatic departure from the submissions, or involves an arbitrator receiving extraneous evidence, or adopts a view wholly at odds with the established evidence adduced by the parties, or arrives at a conclusion unequivocally rejected by the parties as being trivial or irrelevant, might it be appropriate for a court to intervene. In short, there must be a real basis for alleging that the arbitrator has conducted the arbitral process either irrationally or capriciously. … the overriding burden on the applicant is to show that a reasonable litigant in his shoes could not have foreseen the possibility of reasoning of the type revealed in the award. It is only in these very limited circumstances that the arbitrator's decision might be considered unfair": *Soh Beng Tee* at [65(d)]; see also *Vietnam Oil* at [37].

(e) "It is almost invariably the case that parties propose diametrically opposite solutions to resolve a dispute. They may expect the arbitrator to select one of these alternative positions. The arbitrator, however, is not bound to adopt an either/or approach. He is perfectly entitled to embrace a middle path (even without apprising the parties of his provisional thinking or analysis) so long as it is based on evidence that is before him. Similarly, an arbitrator is entitled – indeed, it is his obligation – to come to his own conclusions or inferences from the primary facts placed before him. In this context, he is not expected to inexorably accept the conclusions being urged upon him by the parties. Neither is he expected to consult the parties on his thinking process before finalising his award unless it involves a dramatic departure from

what has been presented to him": *Soh Beng Tee* at [65(e)]; see also *Vietnam Oil* at [37].

(f) "… the presence of a surprising or unforeseen outcome in an award is by no means determinative of whether the fair hearing rule has been breached ... . The question … is fundamentally one of fairness and whether the parties had adequate opportunity to address the issues that they knew or ought reasonably to have known were in play": *Vietnam Oil* at [38].

15 On 23 April 2025 the arbitrator specifically invited further submissions from the parties on "whether there is any basis for [Thye Chuan] to rely on [documents addressed not to Thye Chuan but to MEOD] as evidence of the loss and damage that it is claiming in this Arbitration".[2] This arose from the arbitrator noting that several of the supporting documents produced by Thye Chuan in support of its claims were of that nature.

16 Moreover, in JXC's 24 February 2025 closing submissions (following Thye Chuan's 16 January 2025 closing submissions) JXC had already objected to Thye Chuan relying on such documents. At [194] of JXC's closing submissions, JXC submitted that:

(a) Thye Chuan's supporting documents were for costs incurred by MEOD and not Thye Chuan;

(b) there was no pleaded case for such claims;

[2] Applicant's affidavit, page 2041.

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(c) as Thye Chuan's Mr Ong confirmed, MEOD was not the claimant in the arbitration; and

(d) Thye Chuan had not provided any evidence to show its actual loss suffered as a result of any alleged breach of contract by JXC.

17 In Thye Chuan's 7 May 2025 further submissions,[3] it made various submissions as to why it could rely on invoices addressed to MEOD:

(a) That the source of funds was legally irrelevant: where a claimant has suffered loss such as damage to property or personal injuries, the court in awarding damages is not further concerned with the question of whether the claimant has had to pay for the repairs or medical treatment, or the funds have come from some other source, citing *Cubic Metre Pty Ltd v C & E Critharis Pty Ltd* [2020] NSWSC 479 at [93], and *Linden Gardens Trust Ltd v Lenesta Sludge Disposals Ltd* [1994] 1 AC 85 at 97. ([5] to [7] of the further submissions.)

(b) Indemnity: "JXC was well aware that it would be liable to indemnify Thye Chuan for any losses and liabilities incurred by Thye Chuan to third parties, including MEOD as the Employer under the Main Contract, arising out of or in connection with JXC's performance of the Sub-Contract Works"; clause 45 of the Sub-Contract provides that JXC as Sub-Contractor shall indemnify Thye Chuan as Main Contractor against any liability incurred by the Main Contractor to any person, whether the Employer under the Main Contract, or any other third party, and against all claims, damages, costs and expenses made against or incurred by the Main Contractor by reason of the Sub-Contractor's

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[3] Respondent's affidavit, page 53.

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negligence in performance of the Sub-Contract Works. Thye Chuan's claim includes losses that are reasonably foreseeable as liabilities likely to be passed on to Thye Chuan as Main Contractor. The losses are properly characterised as contingent losses arising from JXC's breach. ([8] to [10] of the further submissions.)

(c) The invoices addressed to MEOD had probative value in evidencing the quantum of loss. ([11] of the further submissions.)

(d) Alternatively, the amounts in the invoices were recoverable as contingent losses: there was a clear and substantial chance that MEOD, as the Employer under the Main Contract, may in future seek to pass on the cost of the remedial works to Thye Chuan. ([12] of the further submissions.)

18 In JXC's 7 May 2025 further submissions,[4] it reiterated and expanded on its objections to Thye Chuan relying on invoices addressed to MEOD:

(a) MEOD was not a party to the arbitration, and it was not within the arbitrator's jurisdiction to decide what happened or did not happen to amounts that MEOD was responsible for paying. ([8] of the further submissions.)

(b) Thye Chuan did not plead a case, or adduce evidence, to recover amounts spent by MEOD. ([9] to [10] of the further submissions.)

(c) Thye Chuan did not plead a case, or adduce witness or documentary evidence, to recover amounts spent by MEOD *as Thye Chuan's own losses*; Thye Chuan did not plead that it was liable to

4 Respondent's affidavit, page 63.

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MEOD for such costs, nor make any positive assertion to that effect in its witness statements. ([11] to [15] of the further submissions.)

19 JXC also sent the arbitrator a 9 May 2025 email[5] to rebut Thye Chuan's further submissions.

20 As noted above at [6] and [8], the arbitrator allowed the claimant's claims based on invoices issued to MEOD, on the basis that expenses incurred by MEOD were *de facto* losses suffered by Thye Chuan. This was, however, not one of the legal bases that Thye Chuan had put forward. Indeed, the arbitrator expressly did not accept the various options that Thye Chuan had put forward:

(a) the arbitrator did not accept that the source of funds was legally irrelevant, finding that Thye Chuan still had to show that *it* (rather than MEOD) had incurred the expense/costs: [191] of the award, *cf* [17(a)] above;

(b) the arbitrator did not accept that JXC was obliged to indemnify Thye Chuan in respect of the amounts in the invoices issued to MEOD: [192] of the award, *cf* [17(b)] above; and

(c) the arbitrator did not agree that the invoices represented contingent losses: [193] of the award, *cf* [17(d)] above.

21 However, the fact that the arbitrator decided on a legal basis which was not one that Thye Chuan had put forward, does not necessarily amount to a breach of natural justice. As noted above, the arbitrator can take a position that

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5 Applicant's affidavit, page 2035.

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is not what either party has put forward, if that is based on evidence in the arbitration, and does not involve a dramatic departure from what has been presented to the arbitrator: [14(e)] above.

22 At [194] of the award the arbitrator set out at some length the matters she relied on for her conclusion that Thye Chuan could claim based on the invoices issued to MEOD:

(a) JXC had amended its defence and counterclaim ("D&CC") to say at [4] that "…MEOD is closely related to [Thye Chuan] and they share the same registered address…. [JXC] has been informed by [Thye Chuan] that MEOD and [Thye Chuan] are the same." ([194(a)] of the award);

(b) JXC had repeated at [7(B)(b)] of its amended D&CC that Thye Chuan and MEOD shared the same office ([194(b)] of the award);

(c) the management of Thye Chuan and MEOD were immediate family – the signatory for MEOD in the Main Contract, Mr Ong Kai Hian, was the brother of the Thye Chuan's Mr Ong Kai Hoe; they were both sons of Thye Chuan's Mr Ong Boon Chuah ([194(c)] of the award);

(d) MEOD's Mr Ong Kai Hian was in direct communications with JXC through the WhatsApp group chat "Phase1 levelling work JX", and had posed questions to JXC directly ([194(d)] of the award);

(e) email communications between the parties had copied MEOD's Mr Ong Kai Hian at an email address which shared the same domain as Thye Chuan's Mr Ong Kai Hoe, the domain name appearing to stand for

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TG Development, the group email used by the management of Thye Chuan and MEOD ([194(e)] of the award);

(f) the post-termination survey invoice from JF Koo (one of the invoices Thye Chuan was claiming on) was addressed to MEOD but marked for the attention of Thye Chuan's Project Manager Mr Lui, and JXC was aware that Mr Lui was Thye Chuan's Project Manager ([194(f)] of the award);

(g) in respect of JXC's counterclaim for sand supply, JXC itself relied on instructions from "Meod Mani Supervisor" and relied on delivery orders variously addressed to Thye Chuan or MEOD ([194(g)] of the award);

(h) at the hearing, Thye Chuan's Mr Ong Kai Hoe explained, "we attached all the Dos as well as invoices for – although you mentioned that it's under MEOD, but eventually it would be charged to Thye Chuan. Because under the contract, it's actually Thye Chuan's obligation." ([194(h)] of the award).

23 The arbitrator went on to say at [195] of the award that it was unsatisfactory that there was no back charge by MEOD to Thye Chuan of the various invoices that have been issued to MEOD in respect of the balance of the Sub-Contract Works which Thye Chuan was liable to MEOD for, but found:

> … it is clear that at all material times, both prior to and during the carrying out of the Sub-Contract Works, [Thye Chuan] and [JXC] both regarded MEOD and [Thye Chuan's] representatives and management as acting interchangeably on behalf of both MEOD and [Thye Chuan] , and were *de facto* the same party when it came to negotiation with and instructions to [JXC] under the Sub-Contract. I find that [JXC] understood and accepted that MEOD and [Thye Chuan] "are the same", such that expenses incurred by MEOD to remedy deficiencies in the

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> performance of the Sub-Contract, would *de facto* be losses incurred by [Thye Chuan], whether formally back charged by MEOD to [Thye Chuan] or otherwise.

24 The building blocks of the arbitrator's reasoning that Thye Chuan could claim based on invoices issued to MEOD all came from "the pleadings and the particular contextual background of this case" (as the arbitrator said at [194] of the award): it was all drawn from the pleadings and evidence in the arbitration.

25 The question remains whether the arbitrator's reasoning was nevertheless a dramatic departure from what had been presented to the arbitrator. It was not. I highlight in particular two aspects of [194] of the award, [194(a)] relating to JXC's pleadings, and [194(g)] relating to JXC's claim for sand supply. These two aspects (as will be seen) are related.

26 In Thye Chuan's 9 June 2022 statement of claim,[6] Thye Chuan pleaded at [6] that it entered into the Main Contract with MEOD on 14 January 2021. In JXC's 7 July 2022 defence at [4],[7] JXC denied [6] of the statement of claim and pleaded that Thye Chuan entered into the Main Contract with MEOD on 1 October 2019.

27 Thereafter, however, JXC sought and obtained leave to amend its defence. In its amended D&CC dated 17 April 2023, JXC added a counterclaim; JXC also added the following to [4] of its defence:

> MEOD is closely related to Thye Chuan and they share the same registered address … . The Respondent has been informed by the Claimant that MEOD and [Thye Chuan] are the same.

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6 Applicant's affidavit, page 76.

7 Applicant's affidavit, page 99.

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28 Thye Chuan responded to [4] of JXC's amended D&CC by [2A] of its reply to statement of defence (amendment no. 1),[8] denying that it had informed JXC that MEOD and Thye Chuan are the same.

29 [4] of JXC's amended D&CC was cited by the arbitrator as one of the matters relied upon for her reasoning regarding the invoices issued to MEOD.

30 At the hearing before me, JXC's counsel sought to downplay the significance of the words added by amendment to [4] of JXC's amended D&CC. He said the amended language was a throwaway attempt at a pleading, a partial pleading, and that JXC led no evidence on this aspect of the matter.

31 JXC cannot distance itself from its own pleadings so easily. It is significant that this amendment to [4] of JXC's defence, was made at the same time that JXC advanced a counterclaim. JXC's counterclaim included a claim for sand supply, for which JXC relied on various delivery orders. Copies of those delivery orders were included in the Respondent's Bundle of Additional Documents dated 18 November 2024, and described as follows:

> (A) Sand supply as requested by Thye Chuan
>
> – Delivery Order Nos. 68561, 68563 & 51636 issued by JXC to Thye Chuan

32 Of the three delivery orders, however, one (No. 51636) was addressed not to Thye Chuan but to MEOD.

33 The arbitrator addressed JXC's claim for sand supply at [219]–[222] of the award. At [219] of the award, the arbitrator noted that JXC claimed $1,035 for that head of counterclaim, relying on the aforesaid three delivery orders and

8 Applicant's affidavit, page 117.

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a WhatsApp message dated 15 April 2021 from "Meod Mani Supervisor" that said, "Hi Bro ! Can deliver 1 load sand | Today ?"

34 The arbitrator observed at [221] of the award:

> In the first place, even accepting that the request from *"Meod Mani Supervisor"* on 15 April 2021 satisfies the requirement of Clause 5.6 of the LOA for *"written approval"* from [Thye Chuan], Delivery Orders No. 68563 and 68561 , which are both dated 20 March 2021 , come *before* this alleged request. Only the singular Delivery Order No. 51636 dated 16 April 2021 could possibly correspond to this request.

35 The arbitrator then decided at [222] of the award:

> [JXC's] claim for sand supply is partially allowed, being limited to the claim based on Delivery Order No. 51636 dated 16 April 2021, amounting to $345.00 (being $300.00 plus a 15% admin charge).

36 The arbitrator thus decided in JXC's favour for $345 based on Delivery Order No. 51636 for sand, although:

(a) the request for supply of sand came from a representative of MEOD (rather than Thye Chuan); and

(b) JXC's delivery order was issued to MEOD (rather than Thye Chuan).

37 I agree with Thye Chuan's submission that JXC amended [4] of its amended D&CC because it wished to treat Thye Chuan and MEOD as "the same", for the purposes of its counterclaim: specifically, for its counterclaim for supply of sand, it suited JXC to be able to say that a WhatsApp message from a representative of MEOD satisfied the contractual requirement of "written approval" from Thye Chuan, and that it could claim on a delivery order issued

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to MEOD (ostensibly for sand delivered to MEOD) as if it were a delivery order issued to Thye Chuan for sand delivered to Thye Chuan.

38 It was in similar vein that the arbitrator reasoned that Thye Chuan could claim on third party invoices issued to MEOD, because JXC:

> understood and accepted that MEOD and [Thye Chuan] "are the same", such that expenses incurred by MEOD to remedy deficiencies in the performance of the Sub-Contract, would *de facto* be losses incurred by [Thye Chuan], whether formally back charged by MEOD to [Thye Chuan] or otherwise. ([195] of the award)

39 With JXC's pleading that Thye Chuan had informed it that MEOD and Thye Chuan are the same, and Thye Chuan's denial of that, it was in issue before the arbitrator whether Thye Chuan had said that to JXC. But JXC's pleading was not merely about whether Thye Chuan had made that statement, with no consequence flowing from that. The arbitrator reasonably understood JXC to be conveying that Thye Chuan had said that MEOD and Thye Chuan are the same, and so JXC understood that to be the case. This would have been reinforced by JXC's counterclaim for sand supply, which relied on a message from an MEOD representative, and a delivery order JXC issued to MEOD.

40 In the circumstances, the arbitrator's reasoning that Thye Chuan could claim on invoices issued to MEOD was not a dramatic departure from what had been presented to the arbitrator: it flowed from the issue of whether Thye Chuan had led JXC to understand that Thye Chuan and MEOD "are the same" for the purposes of the Project, and was in line with JXC's own approach to its counterclaim for sand supply. A reasonable litigant in JXC's shoes could have foreseen the possibility of reasoning of the type revealed in the award in relation to Thye Chuan's claim on invoices that third parties issued to MEOD, for it was

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the same reasoning that JXC had put forward for its sand supply claim on an invoice that JXC issued to MEOD.

41 In any event, even if the presence of that reasoning were regarded as "surprising or unforeseen" (which I do not consider it to be), that is not "determinative of whether the fair hearing rule has been breached". The question … is fundamentally one of fairness and whether the parties had adequate opportunity to address the issues that they knew or ought reasonably to have known were in play": [14(f)] above.

42 Here, JXC had the opportunity to question Thye Chuan's witness Mr Ong Kai Hoe about Thye Chuan's invoices issued to MEOD (resulting in Mr Ong's explanation which the arbitrator noted at [194(h)] of the award); JXC also had the opportunity to address the point in closing submissions, further submissions thereafter, and also an email JXC sent to rebut Thye Chuan's further submissions.

43 Moreover, JXC itself put in issue whether Thye Chuan had given it the impression that Thye Chuan and MEOD "are the same" for the purpose of the Project, and JXC's claim for sand supply proceeded on that premise.

44 There was no unfairness in the arbitrator finding for Thye Chuan on its claims based on the invoices issued to MEOD, when the arbitrator also found for JXC on its claim for sand supply (likewise based on an invoice issued to MEOD).

45 For the above reasons, I find that there was no breach of natural justice, and in any event that the arbitrator's decision regarding the invoices issued to MEOD should not be set aside.

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46 JXC's challenge to the costs decision was predicated on its challenge to the arbitrator's reasoning regarding the invoices issued to MEOD, and it follows that there is no reason to set aside the costs decision either.

47 Accordingly, I dismiss JXC's setting-aside application.

Remission or setting-aside

48 In view of my decision to dismiss JXC's setting-aside application, it is unnecessary for me to decide whether I might have chosen to remit the challenged parts of the award to the arbitrator for further consideration (pursuant to s 48(3) of the Act) rather than to set aside those parts.

49 As the point was fully argued before me, however, I offer the following observations.

50 Thye Chuan submits that, in the present case, if there had been a breach of JXC's right to be heard, the appropriate course would be to remit the matter to the arbitrator:

(a) the arbitrator could then receive further evidence and submissions on what was a discrete point, and make a decision; and

(b) if the breach is in respect of a single isolated or stand-alone point, that points towards remission rather than setting aside: *Soh Beng Tee* at [92].

51 JXC, on the other hand, submits that remission is inappropriate, for the arbitrator is unfit to continue the hearing. In this regard, although JXC did not seek to set aside the arbitrator's decision on termination of the Sub-Contract, in the context of whether there should be remission JXC argues that the arbitrator

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had incorrectly decided that Thye Chuan was entitled to terminate the Sub-Contract. Citing *BZW v BZV* [2022] 1 SLR 1080 ("*BZW v BZV*"), JXC says the breach here did not involve only a single isolated or stand-alone issue or point; rather, the tribunal had failed entirely to appreciate the correct questions it had to pose to itself, let alone apply its mind to determining those questions (*BZW v BZV* at [68]).

52 In the present case, if I had concluded that there had been a breach of natural justice, I would have remitted the point to the arbitrator for further consideration, rather than setting aside the affected parts of the award.

53 I agree with Thye Chuan that the complaint concerns a single isolated or stand-alone point. The arbitrator had identified the issue of whether Thye Chuan could claim based on third-party invoices issued to MEOD, and asked the parties to make further submissions on it. JXC had already made submissions on the point in its closing submissions, both parties made further submissions after the arbitrator's invitation to do so, and JXC even sent a rebuttal email thereafter.

54 This was not a case like *BZW v BZV* where the tribunal had failed entirely to appreciate the correct questions it had to pose to itself, let alone apply its mind to determining those questions. Here, the arbitrator correctly identified the question (whether Thye Chuan could claim based on third-party invoices issued to MEOD), and applied her mind to determining that question (as can be seen from [194] to [196] of the award). The complaint is that the arbitrator did not decide the point based on Thye Chuan's submissions, but instead based on her reasoning as set out in that part of the award. Even so, [194] of the award shows that what the tribunal relied on for its reasoning, were all matters within the arbitration.

55 As for JXC's complaint that the arbitrator had erred in finding that Thye Chuan was entitled to terminate the Sub-Contract, there was only a brief reference to that in JXC's affidavit in support of its setting-aside application, at [47]:

> From the Applicant's perspective, the termination was capricious and without proper basis, particularly in light of the Tribunal's findings on delay in favour of the Applicant. The Applicant refers to this background only to explain the context in which the damages were awarded.

56 This was then elaborated upon slightly in JXC's written submissions at [68]:

> The MEOD loss is based on the Tribunal's paradoxical decision to penalise JXC for doing everything right in performing the Contract as set in the Award. It will be apparent to any objective reader that the MEOD loss is premised on the Award rewarding TC in damages for *wrongly terminating* JXC's contract. This was a perplexing decision but an error of fact that JXC cannot overturn by appeal against the Award. It was an unjust Award even if based on the Tribunal's own interpretation of the contract termination clause. JXC does not consider the Award to be correctly decided on the termination issue. No objective party would have faith in the Tribunal to re-decide any issue.

57 At the hearing before me, JXC's counsel drew my attention to [136] to [160] of the award. In that section of the award, the arbitrator considered at [154] to [156] the issue of whether JXC had successfully carried out the Phase 1 Works by the contractual completion date of 17 February 2021:

> (a) At [155], the arbitrator noted WhatsApp messages from Thye Chuan which demonstrated that in its opinion, the Sub-Contract Works had not been completed as of 15 and 19 April 2021, and that the Phase 1 Works had not been completed even as of April 2021, to which there was no response from JXC disputing that the Works had not been

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completed. The arbitrator concluded that the Phase 1 Works had not been completed.

(b) Further, the arbitrator noted at [156] that JXC had not made an application for EOT on account of Thye Chuan's failure to provide survey points or pegs, and that there was no evidence that JXC had considered the time impact of Thye Chuan's changes to the FFL (floor finishing levels) or raised the same to Thye Chuan. JXC should have made it clear that its failure to complete the Phase 1 Works was due to those matters, but it made no contemporaneous application for EOT in accordance with the Sub-Contract, which meant that JXC was in breach of its contractual obligation to complete Phase 1 Works by the contractual completion date of 17 February 2021.

58 The arbitrator went on to hold at [157] to [160] of the award that Thye Chuan was entitled to terminate the Sub-Contract for JXC had "failed, omitted, refused or neglected to proceed with the Sub-Contract Works with due diligence to the satisfaction of …[Thye Chuan]". In this regard, the arbitrator referred to the correspondence between the parties prior to termination, as set out at [155] of the award.

59 Just from reviewing [136] to [160] of the award, I could not conclude that the arbitrator's decision on termination was erroneous, let alone that because of the arbitrator's decision on termination, remission would not be appropriate. In this regard, [114] of *Vietnam Oil* is instructive: in considering "whether a reasonable person would no longer have confidence in the Tribunal's ability to come to a fair and balanced conclusion on the issues if remitted" (*BZW v BZV*) at [67(b)], "the real focus is on confidence in a fair *process*, rather than confidence in a fair *conclusion*". There was nothing in arbitrator's decision on

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termination as per [136] to [160] of the award that "would cause a fair-minded observer to reasonably apprehend that the tribunal may be unable to afford the parties a fair *process* in its determination on the remitted issues" (*Vietnam Oil* at [114]).

60 On 30 April 2026, after I had reserved my decision at the conclusion of the hearing that day, JXC's lawyers wrote to court. The letter, running to some four and a half pages, contains further submissions on the termination of the Sub-Contract. Reference was made to two paragraphs of the award, [168] and [170], which were not canvassed in JXC's written submissions or at the hearing; to the evidence of both side's experts, to both parties' closing submissions in the arbitration. All of this is directed towards urging the court that JXC was successful on the issue of time, and the decision that Thye Chuan was entitled to terminate the Sub-Contract went against the evidence, including the experts' evidence.

61 The letter also makes the further submission that remission was not cost-effective given that the sum in dispute was just $71,575.65; the court should just set aside parts of the award and leave it to the parties to decide how to proceed thereafter.

62 Thye Chuan, understandably, objects to this letter, in its lawyers' reply of 5 May 2026. Thye Chuan says, first, that JXC's lawyers' letter is procedurally improper and should be disregarded; second, it says it is inappropriate for JXC to be delving extensively into factual and expert evidence on the issue of delay. Thye Chuan's lawyers' letter also responds substantively to the points raised by JXC, including by saying that setting-aside would not be cost-effective, as the portions set aside would then not have been resolved, and arbitrating them

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afresh before a new tribunal would be more expensive than remitting them to the same tribunal.

63 On 19 May 2026, JXC's lawyers replied to say that their letter of 30 April 2026 was not procedurally improper, and should not be disregarded; they also responded to other points in Thye Chuan's lawyers' letter of 5 May 2026.

64 It is worth reiterating that when the court has reserved judgment, no further submissions should be made without the leave of court: *Wan Hoe Keet v LVM Law Chambers LLC* [2019] SGHC 103 at [12]. Parties who simply make purported "further submissions" run the risk of them being disregarded (which is what happened in that case). JXC's lawyers' letter of 30 April 2026 did not seek the court's permission to make further submissions, and neither did their letter of 19 May 2026.

65 In the present case, if I were minded to consider the correspondence after I had reserved judgment, as further submissions, it would not have changed my view that remission would have been appropriate, rather than setting-aside.

Conclusion

66 For the above reasons, I dismiss JXC's setting-aside application.

67 Unless the parties can agree on costs, they are to file their costs submissions, limited to three pages excluding any schedule of disbursements, by 29 May 2026.

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Andre Maniam
Judge of the High Court

Daniel Tay Yi Ming and Kamini Devi Naidu d/o Devadass (BR Law Corporation) for the applicant;
Ho Chye Hoon (KEL LLC) for the respondent.

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