IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

[2025] SGCA 27

Court of Appeal / Civil Appeal No 32 of 2024

Between

(1) Yit Chee Wah
(2) Zhong Jun Resources (S) Pte. Ltd. (in liquidation)

… *Appellants*

And

Inner Mongolia Huomei-Hongjun Aluminium Electricity Co., Ltd.

… *Respondent*

In the matter of Companies Winding Up No 127 of 2024
(Summons No 2430 of 2023)

In the matter of
Section 220 of the Insolvency, Restructuring and Dissolution Act 2018

And

In the matter of
Zhong Jun Resources (S) Pte. Ltd. (in liquidation)

Between

Zhong Jun Resources (S) Pte. Ltd. (in liquidation)

… *Defendant*

And

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Inner Mongolia Huomei-
Hongjun Aluminium
Electricity Co., Ltd.

… *Non-party*

Court of Appeal / Civil Appeal No 33 of 2024

Between

(1) Yit Chee Wah
(2) Zhong Jun Resources (S) Pte.
Ltd. (in liquidation)

… *Appellants*

And

Shenzhen Huomei-Hongjun
Aluminium Trading Co., Ltd.

… *Respondent*

In the matter of Companies Winding Up No 127 of 2024
(Summons No 2432 of 2023)

In the matter of
Section 220 of the Insolvency, Restructuring and Dissolution Act 2018

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Zhong Jun Resources (S) Pte. Ltd. (in liquidation)

Between

Zhong Jun Resources (S)
Pte. Ltd. (in liquidation)

… *Defendant*

And

Shenzhen Huomei-Hongjun
Aluminium Trading Co., Ltd.

… *Non-party*

JUDGMENT

[Insolvency Law — Winding up — Proof of debt — Expunging proof of debt]

This judgment is subject to final editorial corrections approved by the court and/or redaction pursuant to the publisher's duty in compliance with the law, for publication in LawNet and/or the Singapore Law Reports.

Yit Chee Wah and another
v
Inner Mongolia Huomei-Hongjun Aluminium Electricity Co, Ltd and another appeal

[2025] SGCA 27

Court of Appeal — Civil Appeals Nos 32 and 33 of 2024
Sundaresh Menon CJ, Kannan Ramesh JAD and Judith Prakash SJ
11 November 2024, 30 April 2025

20 June 2025 Judgment reserved.

Judith Prakash SJ (delivering the judgment of the court):

Introduction

1 The insolvency regime is a collective one. Upon the winding up of a company, insolvency law steps in to provide a mechanism for the orderly collection and realisation of assets and for the distribution of the company's assets among its creditors (*Goode on Principles of Corporate Insolvency Law* (Kristin van Zwieten gen ed) (Sweet & Maxwell, 5th Ed, 2018) ("*Goode*") at para 1-08). The winding-up order effects a statutory scheme for dealing with the assets of the company to discharge its liabilities. The company no longer uses its assets for its own benefit; instead, all powers of dealing with the company's assets are transferred to the liquidator who is bound to act in accordance with the statutory scheme (*Media Development Authority of Singapore v Sculptor Finance (MD) Ireland Ltd* [2014] 1 SLR 733 ("*Media Development Authority*")

at [43]). The company's creditors are required to submit their proofs of debt to the liquidator. The liquidator then has the power and duty to examine and adjudicate on the proofs of debt filed and distribute the company's assets in accordance with the statutory scheme of distribution. The present appeals arise from such an adjudication of proofs of debt.

2 It is well-known that where a liquidator has rejected a proof of debt, it is open to the aggrieved creditor to apply to the court to reverse or vary the liquidator's decision. The present appeals concern the contrary position where the liquidator who previously admitted a proof of debt now seeks to expunge the proof. This recourse is provided for in r 133(1) of the Insolvency, Restructuring and Dissolution (Corporate Insolvency and Restructuring) Rules 2020 ("CIR Rules"). As there has yet to be any local case dealing with an application under r 133(1) of the CIR Rules for the expungement or reduction of a proof of debt, these appeals provide an opportunity for this court to pronounce on the applicable test under this rule, in light of the broader statutory scheme for the adjudication of an insolvent company's assets and liabilities.

Background

3 The appellants have appealed against the whole of the decision of the judge below (the "Judge") in respect of HC/SUM 2430/2023 ("SUM 2430") and HC/SUM 2432/2023 ("SUM 2432").

The parties

4 There are two appellants. The first appellant, Mr Yit Chee Wah ("Mr Yit" or, alternatively, the "Liquidator"), is currently the sole liquidator of the second appellant, Zhong Jun Resources (S) Pte Ltd (the "Company"). Until

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late 2020, he was one of two persons holding the appointment of joint and several liquidators from time to time (the "Liquidators").

5 The Company was incorporated in Singapore on 28 June 2004, and was in the metal trading business, buying metal from global suppliers and re-selling the same to customers within the People's Republic of China ("PRC"). The Company was part of a broader group of entities controlled by two brothers, Mr Chen Jihong and Mr Chen Jilong (the "Dezheng Group").

6 The respondents in these appeals are two companies incorporated in the PRC, Inner Mongolia Huomei-Hongjun Aluminium Electricity Co, Ltd ("Inner Mongolia") and Shenzhen Huomei-Hongjun Aluminium Trading Co, Ltd ("Shenzhen"). The respondents were part of the Dezheng Group and were related to the Company. The respondents filed proofs of debt against the Company after it was ordered to be wound up.

Background to the dispute

7 In the course of its business, the Company had entered into commodity financing arrangements with various banks. In or around May 2014, it was discovered in bank audits and by the PRC authorities that multiple trade documents may have been issued by the Dezheng Group entities to fraudulently obtain financing from multiple banks over the same inventory. The PRC authorities then carried out investigations.

8 While the investigations were in train, on 1 July 2014, the Hongkong and Shanghai Banking Corporation ("HSBC") applied for a winding-up order against the Company in CWU 127/2014. On 11 November 2014, the court ordered that the Company be wound up and appointed Mr Mark Sims Chadwick

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("Mr Chadwick") and Mr Yit as the joint and several liquidators of the Company. On 28 November 2014, the Liquidators circulated a notice to the Company's creditors to submit their proofs of debt by 11 December 2014 for the purposes of attending and voting at the creditors' meeting on 12 December 2014.

9 On 11 December 2014, Inner Mongolia filed its proof of debt for claims amounting to US$3,257,587. Inner Mongolia's claims arose from six transactions for the sale of alumina to the Company (described as "Trade 1" to "Trade 6"). These transactions arose from a contract by which Inner Mongolia agreed to purchase quantities of alumina from Zhong Jun Resources Co Ltd ("Zhong Jun HK"), a wholly owned subsidiary of the Company (the "Long Term Agreement"). Shenzhen acted as Inner Mongolia's agent in the import of alumina and funded the purchase of alumina from Zhong Jun HK. Shenzhen thereby became entitled to be paid for its services as agent as well as for the cost of purchasing the alumina from Zhong Jun HK. Inner Mongolia would thereafter resell the alumina to the Company. For each transaction, the Company agreed to pay Inner Mongolia the difference between the original price of the alumina and the "settlement price" which was to be calculated in accordance with an agreed formula (the "Price Difference"). Inner Mongolia's claims were for the Price Differences from the six trades.

10 On 9 July 2015, Shenzhen filed its proof of debt for US$28,750,000. Shenzhen's claim arose out of a contract for the sale of a cargo of 31,500mt of alumina by Shenzhen to the Company. The cargo was purportedly shipped on board the MV *Four Nabucco* at the port of Gove, Australia, as evidenced by a bill of lading issued on 2 March 2014. Shenzhen had obtained an arbitral award in its favour, issued by the China International Economic and Trade Arbitration

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Commission on 17 April 2015 (the "Arbitral Award") in respect of its claim under the contract for the sale of the cargo.

11 The Liquidators adjudicated the proofs of debt on 12 August 2015. They admitted Inner Mongolia's claims for US$2,893,295, in respect of Trades 3 to 6. Inner Mongolia's claims in respect of Trades 1 and 2 were rejected as the supporting documents showed that the Company was not a party to those transactions. As for Shenzhen's proof of debt, the Liquidators admitted US$15,033,882.15 of the same but rejected the remaining US$13,716,117.85 because there had been an incorrect calculation of interest charges. As both Inner Mongolia and Shenzhen were related entities of the Company, when the Liquidators informed them in August 2015 of the amounts admitted, the Liquidators also stated that they would withhold the distribution of dividends pending investigations into the Company's affairs and its dealings with the respondents.

12 Mr Chadwick was released as a joint and several liquidator of the Company on 28 July 2016, and Mr Joshua Taylor ("Mr Taylor") was appointed in his place.

13 In or around December 2019, the Liquidators received a translated copy of a criminal judgment handed down by a court of the People's Republic of China, dated 18 November 2019, convicting the former controllers of the Dezheng Group of metal financing fraud. The Liquidators then commenced further investigations into related companies who had traded with the Company, including Inner Mongolia and Shenzhen.

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14 In or around January 2020, the Liquidators were furnished with data from the vessel-tracking website "VesselFinder" about the movements of MV *Four Nabucco*. This data did not show that, during the period from February 2014 to the end of April 2014, the MV *Four Nabucco* was located near Australia which was the site of the loading port stated in the bill of lading dated 2 March 2014 which Shenzhen had presented in support of its claim. The Liquidators thus looked into the trades involving Inner Mongolia as well and found discrepancies between data supplied by VesselFinder and the alleged movements of the vessels carrying the cargo consignments for those trades. For each of the Trades, apart from Trade 4, the carrying vessel had not, according to VesselFinder's report, been near Australia (the site of the respective loading ports) during a period of a few weeks within which the alleged loading of goods could and should have taken place. In respect of Trade 4, no information on the relevant vessel's movements was available.

15 Mr Taylor stepped down as a joint and several liquidator of the Company in late 2020. After conducting further investigations, Mr Yit, now the sole liquidator, discovered several inconsistencies in the supporting documents submitted by the respondents. He took the view that the respondents' supporting documents were fraudulent and that the trades which the proofs of debt were based on had not taken place.

16 On 26 July and 11 October 2022, the Liquidator issued notices to Inner Mongolia informing the latter of his intention to apply to court to expunge Inner Mongolia's proof of debt. Similarly, on 26 July 2022, the Liquidator issued a notice to inform Shenzhen of his intention to apply to court to expunge Shenzhen's proof of debt. The foregoing is a brief account of the facts. We elaborate on them below.

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Procedural history

17 On 8 August 2023, the Liquidator filed SUMs 2430 and 2432 to expunge Inner Mongolia's and Shenzhen's proofs of debts entirely. The Judge dismissed these applications, leading to the present appeals.

18 The parties appeared before us on 11 November 2024. In the course of the hearing, Shenzhen's counsel sought the court's leave to file an affidavit in respect of the reliability of the data from VesselFinder, and to proffer evidence that the purported transactions had taken place. We granted such leave and also gave the respondents liberty to file evidence relating to the weight to be placed on the VesselFinder data adduced in these appeals by 31 December 2024. The appellants were granted permission to file reply affidavits by 31 January 2025.

19 Pursuant to the leave granted and further extensions of time, the parties filed five affidavits in total between 21 January and 14 March 2025.

Decision below

20 In his judgment, the Judge noted that the parties agreed that r 133(1) of the CIR Rules (rather than r 94 of the Companies (Winding Up) Rules (Cap 50, R1, 1990 Rev Ed)) applied to the Liquidator's applications: *Re Zhong Jun Resources (S) Pte Ltd (in liquidation) (Inner Mongolia Huomei-Hongjun Aluminium Electricity Co Ltd and another, non-parties)* [2024] SGHC 160 (the "GD") at [18]. The Judge observed that the Liquidator had accepted that he bore the burden of proof to show, on a balance of probabilities, that the proofs were wrongly admitted. The Judge agreed with this position, holding that in an application to expunge proofs of debt under r 133(1) of the CIR Rules, the

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Liquidator "had to prove on a balance of probabilities that the [admitted claims] were not valid": GD at [20].

21 The Judge held that the Liquidator had failed to discharge this burden of proof in respect of both Inner Mongolia's and Shenzhen's proofs of debt.

22 First, in respect of Inner Mongolia's proof of debt, the Judge weighed the evidence presented. He accorded little weight to the minutes of a meeting purportedly held on 25 November 2014 between representatives from the Company and Inner Mongolia because the statements in the minutes regarding the alleged treatment of US$3,257,587 as the Company's profits were not borne out by the Company's audited reports. On the other hand, the existence of Trades 3 to 6 was supported by the bills of lading, contracts, invoices and a confirmation letter signed by Inner Mongolia, Zhong Jun HK, the Company and Shenzhen confirming the arrangement for the resale of alumina to the Company by Inner Mongolia and for Shenzhen to act on behalf of the Company: GD at [27]–[29]. It was significant that the bills of lading were issued by a third party – Monson Agencies Australia Pty Ltd ("Monson Agencies"). Assuming that the bills of lading were indeed issued by Monson Agencies, this meant that any allegation of fraud would necessarily implicate Monson Agencies as well. The Judge noted that the Liquidator was unwilling to take a position regarding the third party: GD at [31]–[32]. In the Judge's view, it was also important that there was no evidence that the vessels in question did not arrive at the respective ports of discharge stated in the bills of lading: GD at [34].

23 The Liquidator's allegations of fraud simply rested on the screenshots from VesselFinder; this was insufficient to rebut the evidence supporting Inner Mongolia's claims. The Judge noted that VesselFinder itself expressly stated

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that it made no representation or warranty as to the accuracy, reliability or completeness of any information it published. Further, there was no independent expert evidence before him as to the reliability of information obtained from VesselFinder regarding vessel movements. Although the screenshots gave rise to a suspicion, such suspicion was insufficient to discharge the Liquidator's burden of proof: GD at [35]–[36]. Even though the Company's books did not contain any record of the amount claimed by Inner Mongolia, the books showed that the Company paid Shenzhen in respect of the trades. This was evidence that the trades did take place: GD at [37].

24 Next, in respect of Shenzhen's proof of debt, the Judge held that the Liquidator was entitled to go behind the Arbitral Award to re-evaluate the correctness of Shenzhen's claim despite his non-participation in the arbitration proceedings: GD at [44]. However, the burden remained on the Liquidator to prove that the trade in question did not take place. The Liquidator had failed to discharge his burden of proof. The Judge found that the documents in evidence supported Shenzhen's claim: GD at [45]–[46]. Just as in the case of Inner Mongolia's proof of debt, the Liquidator's reliance on a screenshot from VesselFinder was insufficient to discharge the Liquidator's burden of proof: GD at [47].

25 Thus, the Judge dismissed the Liquidator's applications in SUM 2430 and SUM 2432.

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The parties' cases

Appellants' Case

26 The appellants submit that a liquidator has to satisfy two steps in an application to expunge a proof of debt. The liquidator must: (a) establish that the proof has been improperly admitted or ought to be reduced; and (b) satisfy the court that it should exercise its discretion to expunge the proof.

27 The appellants allege that the Judge adopted an erroneous characterisation of the first limb of the test by requiring the Liquidator to show that the claims underlying the proofs of debt were not valid (the "Higher Standard"). Instead, the relevant question for the first limb should be "whether, on a balance of probabilities, if the liquidator had not made the mistake he did when adjudicating the proof, the liquidator would have rejected it" (the "Adjudication Standard"). In other words, to prove that a proof of debt has been "improperly admitted", a liquidator's actual burden is to show that:

(a) there was a mistake (of either fact or law); and

(b) the mistake was sufficiently material that had the liquidator not been so mistaken when adjudicating the proof, he would have rejected the proof of debt. A mistake would be sufficiently material if, but for the mistake, the liquidator would have *suspected* the proof of debt to be unenforceable.

28 Applying the Adjudication Standard, Inner Mongolia's proof of debt should be expunged. First, the appellants continue to rely on the VesselFinder data as their main basis for alleging fraud or forgery by Inner Mongolia. They

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submit that the VesselFinder data is reliable. They have, in the latest round of affidavits, filed an affidavit from an expert in support of that submission.

29 Second, if the Liquidator had knowledge of the VesselFinder data at the time when the proof was presented, he would have rejected Inner Mongolia's proof of debt. This is because the VesselFinder data casts doubt or, at the very least, raises the suspicion that the bills of lading were fraudulent and that the trades had not taken place. Further, Inner Mongolia was a related entity ultimately controlled by Mr Chen Jihong, who had been convicted of metal financing fraud. This strengthened the suspicion, raised by the VesselFinder data, that the debts were "unenforceable" (by which the appellants likely mean non-existent).

30 The appellants submit that limited evidential weight should be accorded to the Company's financial records. This is because Inner Mongolia, Shenzhen, Zhong Jun HK and the Company were all related parties whose ultimate beneficial owners had been convicted of metal financing fraud. Even if regard were to be had to the Company's financial records, there is no evidence of any outstanding amounts being owed to Inner Mongolia.

31 It would also be too taxing or onerous to require the Liquidator to undertake extensive investigations into any third parties involved in the procurement of the supporting documents. Further, as the Liquidators had expressly stated that the distribution of dividends would be withheld until the investigations into the Company's affairs were complete, there would be no prejudice to Inner Mongolia if the court exercises its discretion to expunge the proof of debt.

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32 Alternatively, even applying the Higher Standard, the VesselFinder data shows that the bills of lading are fraudulent and that Inner Mongolia's claims are invalid.

33 As for Shenzhen's proof of debt, the appellants submit that the Liquidator may go behind the Arbitral Award to assess the validity of Shenzhen's claim. Applying the Adjudication Standard, if the Liquidator had knowledge of the VesselFinder data at the time of adjudication, he would have rejected Shenzhen's proof of debt. The VesselFinder data of the MV *Four Nabucco* cast doubt or, at the very least, raised the suspicion that the bill of lading was fraudulent and that the trade did not take place. For the reason given earlier, there would be no prejudice to Shenzhen if the court exercises its discretion to expunge its proof of debt.

34 Even if the Higher Standard is applied, the VesselFinder data shows that the bill of lading is fraudulent, and that Shenzhen's claim is invalid.

Respondents' Cases

Inner Mongolia's case

35 Inner Mongolia submits that the legal burden of proof rests with the Liquidator to establish, on a balance of probabilities, that the debt should not have been admitted. The fact that the Liquidator has made a mistake is not, in and of itself, sufficient to show that a proof was improperly admitted. Where the Liquidator has alleged fraud, although the standard of proof remains that of a balance of probabilities, he must do more than just raise suspicion about the underlying transactions.

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36 Further, Inner Mongolia alleges that the Appellants' arguments about the Higher Standard and Adjudication Standard are legally flawed. The former relates to the legal burden of proof imposed on the Liquidator to prove that the debt has been wrongly admitted, while the latter is the legal burden of proof imposed on the creditor to prove the validity of the debt before the proof of debt was admitted. Even if the Liquidator intends to submit that the evidential burden shifts to the creditor, he must first show that he has reliable evidence for seeking to expunge the proof of debt.

37 As for its proof of debt, Inner Mongolia submits that the Judge had correctly dismissed the appellants' application on the basis that the VesselFinder screenshots were grounds for suspicion, but insufficient to discharge the Liquidator's burden of proof. Moreover, the data from VesselFinder is not reliable. On the other hand, the Company's financial records, which show the Company's purchases from Shenzhen (as agent) in respect of Trades 1 to 6, unequivocally demonstrate that the trades were genuine.

Shenzhen's case

38 Shenzhen submits that the Liquidator bears the burden of proof to show, on a balance of probabilities, that the trades did not occur. However, the more serious the allegation of fraud, the more the party must do to establish its case. Shenzhen argues that the Liquidator has failed to discharge his burden of proof. The data from VesselFinder is insufficient and unreliable. Furthermore, the Liquidator failed to conduct a thorough investigation, and failed to adequately explain: (a) whether the documents allegedly issued by third parties had indeed been issued or if they had been forged; (b) whether the third parties were

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involved in the alleged fraudulent conduct; and (c) whether the goods had arrived at and/or been discharged at the port of discharge.

Issues to be determined

39 The issues that arise for our consideration are:

(a) First, what is the test in an application for expungement or reduction of a proof of debt under r 133(1) of the CIR Rules and on whom does the burden of proof lie.

(b) Second, whether the respondents' proofs of debt should be expunged.

The proof of debt regime

40 We begin by outlining the principles that apply when creditors are required to submit proofs of debt.

41 Upon the winding up of a company, there is a shift from an individual process for debt enforcement against the company (or what has been termed an "individual-grab regime") to a collective process. The reason for this shift towards a collective debt-enforcement mechanism is to ensure the maximisation of returns to creditors: see *Goode* at paras 2-01 and 2-08. In the context of a court-ordered winding up, when a winding up order has been made or a provisional liquidator has been appointed, s 133(1) of the Insolvency, Restructuring and Dissolution Act 2018 (2020 Rev Ed) (the "IRDA") provides that no action or proceeding may be proceeded with or commenced against the company except by the permission of the court and in accordance with such terms as the court may impose. In the same vein, the unsecured assets of a company in liquidation, after payment of statutorily preferred debts, are usually

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applied *pari passu* in satisfaction of its liabilities to its unsecured creditors. Any surplus assets are then distributed among the company's members: *Fustar Chemicals Ltd (Hong Kong) v Liquidator of Fustar Chemicals Pte Ltd* [2009] 4 SLR(R) 458 ("*Fustar (CA)*") at [13].

42 A creditor seeking repayment bears the burden of proving the debt on a balance of probabilities: reg 5 of the Insolvency, Restructuring and Dissolution (Court-Ordered Winding Up) Regulations 2020 (the "CWU Regulations") read with s 220 of the IRDA; *Fustar (CA)* at [13]. In relation to this, s 218 of the IRDA sets out the requirements for provable debts in a judicial management or winding up.

43 A liquidator is empowered to fix the date on or before which creditors are to prove their debts or claims to receive distributions: r 131(1) of the CIR Rules. Once the proofs of debt are filed, the liquidator has the duty of verifying them. In situations where an insolvent company is wound up by the court, reg 17(1) of the CWU Regulations provides that "[t]he liquidator must examine every proof of debt filed with the liquidator and the grounds of the debt, and must in writing admit or reject the proof in whole or in part, or require further evidence in support of the proof".

44 In *Fustar (CA)* (at [20]), we observed in relation to the liquidator's duty to examine proofs of debt that:

> The verification of a proof of debt is not a mere administrative function. Only debts that are legally due are admissible. The liquidator has to ensure that the assets of the company are only distributed to creditors who have debts that have been genuinely created and remain legally due. He has extensive powers to go behind documents. …

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45 Relatedly, the liquidator's role has been said to be a quasi-judicial one: *Fustar Chemicals Ltd v Ong Soo Hwa (liquidator of Fustar Chemicals Pte Ltd)* [2009] 1 SLR(R) 844 ("*Fustar (HC)*") at [26]; Andrew R. Keay, *McPherson & Keay: The Law of Company Liquidation* (Sweet & Maxwell, 5th Ed, 2021) ("*McPherson & Keay*") at paras 8-042 and 12-062. A liquidator's approach to the entire process of proof (admission or rejection) must be entirely as if he is sitting in judgment like a judicial officer. Therefore, "he cannot act unjudicially, capriciously or arbitrarily": *Fustar (HC)* at [26], referring to *ERPIMA SA v Chee Yoh Chuang and another* [1997] 1 SLR(R) 923 ("*ERPIMA*") at [4]. It must be remembered, however, that the adjudication process will generally take place within a short period of time: a liquidator starts the process by giving a notice of his intention to declare a dividend on a particular date and asking for all proofs to be submitted by another, earlier, date (which has to be at least 14 days after the date of the notice). Once the deadline for submitting proofs has passed, the liquidator has 14 days to adjudicate each proof of debt submitted. Generally, unless the court otherwise permits, the whole process from the giving of the notice to the payment should be completed within two months.

46 When the liquidator rejects a proof filed by a creditor, the liquidator "must state in writing in accordance with Form CWU-2 to the creditor the grounds of the rejection": reg 17(2) of the CWU Regulations. The rationale for the liquidator's duty to give reasons if he or she rejects a proof of debt (in whole or in part) is that the statutory regime provides the alleged creditor with the recourse of applying to the court, in what is known as an "appeal" against the liquidator's decision, to reverse or vary the decision of the liquidator. Rule 132 of the CIR Rules provides, in part, that:

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> **Appeal by creditor**
>
> **132.**—(1) If a creditor or contributory of a company is dissatisfied with the decision of the liquidator of the company in rejecting a proof (in whole or in part), the Court may, on the application of the creditor or contributory, reverse or vary the decision of the liquidator.
>
> …
>
> (5) The liquidator must, within 7 days after receipt of a copy of the application, file the proof with the Registrar, together with a memorandum stating the reasons for the liquidator's decision.

47 Where the court hears an "appeal" against the liquidator's decision, the liquidator, who seeks to defend his decision to reject a proof of debt, no longer acts in a quasi-judicial capacity. Thus, the court does not have to give deference to the liquidator's decision in hearing the appeal: see, *eg*, *Feima International (Hongkong) Ltd (in liquidation) v Kyen Resources Pte Ltd (in liquidation) and others* [2024] 4 SLR 101 ("*Feima (HC)*") at [31]. Further, the court is entitled to consider the validity of the proof of debt *de novo*: *Thomson Plaza (Pte) Ltd v Liquidator of Yaohan Department Store Singapore Pte Ltd (in liquidation)* [2001] 2 SLR(R) 483 at [15], referring to *Re Kentwood Constructions Ltd* [1960] 1 WLR 646 ("*Re Kentwood*") at 648. The burden of proof lies with the applicant creditor to establish the validity and amount of the claim on the balance of probabilities: see Ian F. Fletcher, *The Law of Insolvency* (Sweet & Maxwell, 5th Ed, 2017) at para 23-015.

48 On the other hand, where a liquidator initially admits a proof of debt, but later thinks that it has been improperly admitted, r 133(1) of the CIR Rules allows the liquidator to apply to the court to seek an expungement of the proof or a reduction of the amount in the proof of debt. Rule 133(1) forms the subject of these appeals and we turn to consider its meaning.

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The liquidator's duties in adjudicating proofs of debt

49 At this juncture, it is important for us to reiterate and emphasise the liquidator's duty in examining proofs of debt. As has been noted, in relation to proofs filed in a court winding-up, reg 17(1) of the CWU Regulations provides three possible courses of action for a liquidator: (a) admit the proof of debt in whole or in part; (b) reject the proof of debt in whole or in part; or (c) require further evidence in support of the proof. We note that there is a limited time frame in which the liquidator must make a decision one way or another and therefore it is not surprising that the liquidator is given the right to apply for expungement should it subsequently turn out that a proof has been wrongly admitted.

50 In examining proofs of debt, the liquidator is also vested with extensive powers to go behind documents – the liquidator can even re-evaluate judgments and compromise agreements: *Fustar (CA)* at [20]. In *Fustar (CA)* (at [20]–[21]), this court further elaborated upon the liquidator's powers in verifying a proof of debt, which we reproduce in full here, for completeness:

> 20 The verification of a proof of debt is not a mere administrative function. Only debts that are legally due are admissible. The liquidator has to ensure that the assets of the company are only distributed to creditors who have debts that have been genuinely created and remain legally due. He has extensive powers to go behind documents. Even judgments and compromise agreements can be re-evaluated to ensure that the debts are genuine. That said, a liquidator must have a reasonable basis on which to query a debt that appears to be genuine. Although a liquidator "is not bound to admit" any proof of debt which, if admitted, would affect the interests of creditors and contributories, he is only bound to take extraordinary steps to scrutinise a proof of debt on the basis that it could be a false claim in cases where he has reason to be suspicious about its genuineness or legal validity. Factors to be considered include, *inter alia*, the origins of the debt, the length of time the debt has been due, how the company has

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> treated the debt in its financial statements, the business of the debtor company and, where relevant, the relationships between the claimants and the controlling shareholders of the company. In assessing these factors, the liquidator must rely on: (a) knowledge of the general principles of company accounting; (b) the auditing practice of companies by independent auditors; (c) the effect and implication of directors' and shareholders' approvals annually of company accounts made in compliance with the law; (d) the customary insolvency practice in verifying debts; and (e) some degree of common sense in understanding human relationships. In taking into account these matters, he should also apprise himself of the nature of the business of the company, and other facts peculiar to the company in liquidation. In the case of the present company, the relationship between the directors and the shareholders, *inter se*, is obviously a relevant factor to be considered.
>
> 21 Therefore, although a liquidator has a duty to scrutinise all proofs of debt, the level of scrutiny required by the liquidator to discharge this duty must, in the final analysis, depend on the circumstances of the case. …
>
> [emphasis in original omitted]

51 The liquidator's quasi-judicial role has been observed by the General Division of the High Court in *Feima (HC)* (at [50]) to be "founded on the efficiency of the liquidation process". Such efficiency is important especially in situations where the wound-up company is insolvent, as there is a pressing need for the timely distribution of the company's assets to its creditors. It is for this reason that the liquidator is vested with the power to adjudicate the proofs of debt, without bringing every point of dispute to the court. Therefore, the liquidator is entitled to "oversee simple disputes of facts in order to ensure a practical and efficient conclusion of the liquidation process": *Feima (HC)* at [50]. In the context of complicated cross-claims, the court observed that if there are substantial disputes as to the existence and amounts of the counterclaim or cross-claim which required a complex web of facts and issues to be untangled, then "these must usually be resolved by way of a full trial (or other mode of trial necessary for fairly disposing of the issues)": *Feima (HC)* at [56]. The court

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nonetheless took the view that a liquidator could "take the risk and make his own assessment that the accounting exercise did not require a trial". In that circumstance, the creditor would then have the recourse of bringing an appeal against the liquidator's decision to the court, and "the court may then subsequently find that a trial or limited cross-examination was necessary to resolve the issues": *Feima (HC)* at [57].

52 This court dismissed the appeal from the decision in *Feima (HC)*. On appeal, we briefly noted that in cases where the cross-claim is substantially disputed and factually complex, it may be inappropriate for the liquidator to summarily deal with it in the adjudication process, and the liquidator should instead seek directions from the court on the manner or mode by which the cross-claim should be resolved: *Kyen Resources Pte Ltd (in compulsory liquidation) and others v Feima International (Hongkong) Ltd (in liquidation) and another matter* [2024] 1 SLR 266 ("*Kyen Resources*") at [53]:

> … if the claim and cross-claim are not disputed and a set-off is available, it is then a matter of simple arithmetic in setting off the cross-claim against the claim to arrive at a net position on the claim. … where the cross-claim is substantially disputed and factually complex, it may be inappropriate for the liquidator to summarily deal with it in the adjudication process. In such circumstances, the liquidator ought to seek directions from the court on the manner or mode by which the cross-claim should be resolved.

53 In the context of a court-ordered winding up, such directions may be sought from the court pursuant to s 145(3) of the IRDA, which provides that: "[t]he liquidator may apply to the Court for directions in relation to any particular matter arising under the winding up". Voluntary winding-up applications are governed by s 181(1)(*a*) of the IRDA instead.

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54 The decisions in *Feima (HC)* and *Kyen Resources* therefore raise a pertinent question: what is the appropriate recourse for a liquidator when faced with *factually* complex cases that are disputed? In this connection, we also take note of the decision of the High Court in *ERPIMA*. In relation to judicial managers, the High Court stated (at [5]) that the adjudication of proofs of debt:

> … is … quite fast and certainly not as formal as a court trial. … One exception is where a proof of debt involves controversial disputes of facts, where the company under the judicial management on the facts known has to oppose the admission of a claim and where interpretation of agreements is involved. A judicial manager in those cases is not expected to adjudicate upon the matter. He is perfectly entitled to reject the proof of debt and the creditor is not without remedy. Such a creditor may appeal …

55 In our view, in adjudicating a proof of debt which engages factually complex issues which are disputed, a liquidator may: (a) reject the proof of debt, providing the reasons for his rejection; or (b) seek directions from the court on the manner or mode by which the adjudication of the proof of debt should be resolved. Where the liquidator has applied to the court for directions for the resolution of adjudication of the proof of debt, the court may then subsequently find that a trial or a limited cross-examination is necessary for the resolution of the issues. Leaving these two courses of actions open for liquidators promotes the efficiency of the liquidation process.

The test in an application to expunge or reduce a proof of debt

56 Rule 133 of the CIR Rules provides that:

> **Expunging at instance of liquidator or creditor**
>
> **133.**—(1) If a liquidator thinks that a proof has been improperly admitted, the Court may, on the application of the liquidator, after notice to the creditor who filed the proof, expunge the proof or reduce its amount.

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> (2) The Court may expunge or reduce a proof upon the application of a creditor or contributory if the liquidator in question declines to interfere in the matter.

The position in the UK

57 There is a dearth of case law in Singapore on r 133 of the CIR Rules. The parties have therefore directed us to the position in the UK instead. The court's ability to expunge or reduce an improperly admitted proof of debt is provided for by r 14.11 of the Insolvency (England and Wales) Rules 2016 (SI 2016 No 1024) (UK) (the "UK Insolvency Rules 2016"). Rule 14.11 states as follows:

> **Exclusion of proof by the court**
>
> **14.11.**—(1) The court may exclude a proof or reduce the amount claimed—
>
> (a) on the office-holder's application, where the office-holder thinks that the proof has been improperly admitted, or ought to be reduced; or
>
> (b) on the application of a creditor, a member, a contributory or a bankrupt, if the office-holder declines to interfere in the matter.
>
> …

58 Prior to the enactment of the UK Insolvency Rules 2016, the liquidator's ability to apply for exclusion of a proof was found in r 4.85 of the Insolvency Rules 1986 (SI 1986 No 1925) (UK) (the "UK Insolvency Rules 1986"). This rule which contains language that is very similar to that of r 133 of the CIR Rules stated:

> **Expunging of proof by the court**
>
> **4.85**.—(1) The court may expunge a proof or reduce the amount claimed—

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> (a) on the liquidator's application, where he thinks that the proof has been improperly admitted, or ought to be reduced; or
>
> (b) on the application of a creditor, if the liquidator declines to interfere in the matter.

59 The Chancery Division of the High Court of England and Wales had to consider the meaning of r 4.85 of the UK Insolvency Rules 1986 in *Re Globe Legal Services Ltd* [2002] BCC 858 ("*Globe Legal Services*"). In that case, the liquidators of a company applied to the court to expunge a proof of debt pursuant to the rule. A creditor had written a letter to the liquidators stating that it was owed £30,000 plus value added tax, and this sum was accepted by the liquidators as being due. After some time, the creditor submitted a new proof of debt of some £173,000, in place of the original claim for £30,000. The liquidators confirmed that the creditor was a non-preferential creditor. Twelve days later, after taking stock of the trading activities of the company, the liquidators wrote to the creditor, seeking to withdraw their acceptance. Concurrently, the liquidators began proceedings in the district court against the said creditor in respect of arrears of licence fees allegedly due to the company. The creditor alleged a set-off of £173,000. In reply, the liquidators denied any liability in respect of the £173,000. The creditor therefore applied for summary judgment or, in the alternative, striking out of the company's claim on the basis that the £173,000 had been admitted by the liquidators: *Globe Legal Services* at 860–861. The District Judge observed that the liquidators could apply to expunge the proof of debt and thus adjourned the summary judgment application until the determination of whether the proof of debt should be expunged: *Globe Legal Services* at 861F. Accordingly, the liquidators brought an application to expunge the proof of debt, which was heard before Neuberger J (as he then was).

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60 Neuberger J held that for an application under r 4.85 of the UK Insolvency Rules 1986 to succeed, the liquidator has to "get over two hurdles". The liquidator has to: (a) first establish that the proof was improperly admitted or ought to be reduced; and (b) second, satisfy the court that it should exercise its discretion to expunge or reduce the proof: *Globe Legal Services* at 862A.

61 With regard to the first inquiry, while Neuberger J concluded that the phrase "improperly admitted" did not carry with it any connotation of moral opprobrium, he was reluctant to lay down any general guidance as to what could be said to be an improper admission of a proof of debt: *Globe Legal Services* at 862D. In considering the question of whether the liquidators would have had to have made a mistake of fact at the time they admitted the proof for there to be "improper admission", Neuberger J held as follows (at 862E–862G):

> … In my judgment, *such a mistake is neither a necessary nor a sufficient condition of a proof being improperly admitted*. …
>
> Similarly, the mere fact that the liquidator makes a mistake of fact when admitting a proof and he can show that, if he had not made the mistake he would not have admitted the proof, does not mean that the proof was improperly admitted. Thus, it may be shown, on analysis, that a mistake was made, and if it had not been made, the proof would have been rejected. However, if the circumstances were such that the proof should certainly have been accepted, I do not think one would say that there had been an improper admission of the proof.
>
> However, that is not to say that the question of mistake is irrelevant. The discussion during argument has satisfied me that it is dangerous to seek to redefine the expression used in r. 4.85. Apart from the point that the concept of improperly does not carry with it any moral opprobrium, I think it unhelpful to lay down any general guidance as to what can be said to be an 'improper admission' of a proof in any particular case.
>
> [emphasis added]

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62 Considering the facts in the round, the court found that the liquidators had made a mistake: *Globe Legal Services* at 862H–863D. Further, the court observed that "[w]ithout going into any detail, the grounds raised on behalf of the company in the reply [were] well arguable", and that they were issues that "in the absence of any good reason to the contrary, ought to be raised and ought to be determined at a proper hearing": *Globe Legal Services* at 863D and 864H. For those reasons, the court concluded that the liquidators had established, on a balance of probabilities, that the proof was improperly admitted: *Globe Legal Services* at 863E.

63 Turning to the second limb, the court noted that it may refuse to expunge a proof even where the same has been improperly admitted "if it would be unfair on the creditor to do so". However, the court exercised its discretion to expunge the proof: *Globe Legal Services* at 865E–865F. The passage of time since the admission was not very long, and the creditor also did not assert that they had relied on the admission of the proof of debt: *Globe Legal Services* at 865C. The court held that the entire sum claimed by the creditor should be expunged, subject to the condition that if the District Court decided that the claim of £173,000 in whole or in part was justified, then the liquidators would immediately accept the proof of debt as per the court's findings: *Globe Legal Services* at 866B.

64 The appellants adopt the two-step test in *Globe Legal Services*, and submit that the Judge had erroneously characterised the first limb of the test by requiring the Liquidator to show that the underlying claim was not valid. Instead, the relevant question for the first limb should be "whether, on a balance of probabilities, if the Liquidator had not made the mistake he did when adjudicating the proof, the Liquidator would have rejected it". In other words,

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to prove that the proof of debt was "improperly admitted", the Liquidator's actual burden is to show that: (a) there was a mistake (of either fact or law); and (b) the mistake was sufficiently material that had the Liquidator not been so mistaken when adjudicating the proof, he would have rejected the proof of debt. According to the appellants, if a liquidator initially admits a proof, but subsequently discovers he has made a mistake and it is one that is sufficiently material to give rise to a *suspicion* that the debt is unenforceable, the proof is improperly admitted and should be expunged.

65 Inner Mongolia similarly relies on the decision of *Globe Legal Services*, but emphasises Neuberger J's observation that the "mere fact that the liquidator makes a mistake of fact when admitting a proof and he can show that, if he had not made the mistake, he would not have admitted the proof, does not mean that the proof was improperly admitted". Accordingly, Inner Mongolia submits that the Judge was correct in holding that the Liquidator bore the burden of proving, on a balance of probabilities, that the debt should not have been admitted. Although Shenzhen does not refer to the decision of *Globe Legal Services*, or propose a test for expunging or reducing proofs of debt, Shenzhen takes the position that the Liquidator bore the burden of proving fraud.

Our decision on the law

66 The first port of call in determining the test for r 133(1) of the CIR Rules is the plain wording of the provision: *Tan Cheng Bock v Attorney-General* [2017] 2 SLR 850 at [38]. A plain reading of r 133(1) indicates that the test is two-fold. Firstly, the liquidator must "think" that a proof of debt has been improperly admitted. Secondly, the court must be satisfied that it should exercise its discretion to expunge or reduce the proof of debt.

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The first limb: whether the proof of debt was improperly admitted

67 We first turn to examine the appropriate standard of proof under the first limb of the test. In our view, the first limb only requires the applicant liquidator to prove, on a *prima facie* standard, that the proof of debt sought to be expunged or reduced was improperly admitted. The word "think" suggests that what is relevant is the liquidator's opinion of whether the proof was improperly admitted, albeit the liquidator must have a reasonable basis for that opinion.

68 At the outset, we highlight that the first limb does not impose the Higher Standard of requiring the liquidator to prove to the satisfaction of the court that the proof was invalid in that the underlying debt is not maintainable. We thus take the view that the approach that "the liquidator had to prove on a balance of probabilities that the claims or debts that had been admitted were not valid" (GD at [20]) does not cohere with the plain wording of the rule.

69 Additionally, the Higher Standard is contrary to the principles governing the adjudication of proofs of debt. This is because it runs contrary to the well-established and statutorily provided for principle that a creditor bears the burden of proving the debt on a balance of probabilities. Rule 133(1) of the CIR Rules must be interpreted in a manner that is consistent with the rest of the proof of debt regime. Thus, it would be improper to require the liquidator to prove that the proof was invalid in an application for expungement or reduction under r 133(1), while the rest of insolvency law places the burden on the creditor to prove that the proof of debt is valid. The preferable view is that the first limb

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of the test only requires the liquidator to show a *prima facie* case that the proof was improperly admitted.

70 Turning to the definition of "improper admission", we agree with Neuberger J's view in *Globe Legal Services* that the phrase does not convey moral opprobrium and is not limited to situations where there was some dishonesty involved in the admission of the proof of debt. Instead, the phrase is broad enough to include instances where the proof had been mistakenly admitted whether the mistake was due to carelessness or ignorance or some other cause. This would also be consistent with the decision in *Globe Legal Services* itself, where the court accepted that the proof of debt was improperly admitted because the liquidators had made a mistake "although they [did] not seem to have given any proper thought to the matter when the proof was being admitted": *Globe Legal Services* at 862G–863E.

71 In this regard, we have some concerns with the proper interpretation of the statement in *Globe Legal Services* that a mistake of *fact* is "neither a necessary nor sufficient condition of a proof being improperly admitted" (at 862E). The respondents suggest that this statement stands for the proposition that the liquidator must show something more than a mistake of fact in seeking to expunge or reduce a proof of debt, *ie*, the liquidator must show that the proof of debt is not valid. On our view of the paragraph in question, the respondents' suggestion is not correct. The court in *Globe Legal Services* referred to *Re Tate, ex parte Harper* (1882) LR 21 ChD 537 ("*Re Tate*") where the court had found an "improper admission" on the basis of an understanding of the state of the law which a subsequent decision of the court showed to be mistaken (although it was a generally held understanding at the time of admission). Neuberger J agreed that in that case no mistake of fact had been made when the proof was

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admitted but subsequent events showed that the proof had been improperly admitted. It appears to us that the court was simply making the point that a mistake of fact was not necessary for the purpose of showing that a proof was improperly admitted and, thus, the mistake in question may either be one of fact or law. To our minds, this is a sensible approach. There is no reason why a distinction between a mistake of fact and a mistake of law should be drawn in determining whether a proof of debt was improperly admitted.

72 The court in *Globe Legal Services* went beyond a consideration of "necessity" of a mistake of fact to consider the "sufficiency" of a mistake of fact in showing improper admission. The court also added an objective gloss on the "improper admission" requirement by stating that "if the circumstances were such that the proof should certainly have been admitted", one would not say that there had been an improper admission of the proof even if the liquidator made a mistake of fact when admitting the proof: *Globe Legal Services* at 862F. We entirely agree with Neuberger J that, in the light of the discretion that the rule gives a court not to expunge a proof even where a mistake has been made, a mistake is necessary but not sufficient. There must also be, objectively, a consideration of whether the proof should be expunged. That does not mean, however, that it lies on the liquidator to show the sufficiency of the mistake for expungement. Nor do we think such a position was implied in Neuberger J's statement which deals with the exercise of discretion rather than with the burden of proof.

73 In our view, the first limb of the test only involves an assessment of whether the liquidator "thinks" on reasonable grounds that there has been an improper admission of the proof of debt – it does not venture further into an inquiry as to whether the admitted proof of debt should be expunged simply

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because the admission was improper. To do so would be to undertake an inquiry as to the objective assessment of the proof's validity, which is more appropriately reserved for the second limb of the test.

74 To summarise, a liquidator may prove that the proof of debt was *prima facie* "improperly admitted" by showing that a mistake has been made and if it had not been for that mistake, the proof would have been rejected. In this regard, it is also clear from *Re Tate*, as discussed in *Globe Legal Services*, that the wrongful admission could have been due to ignorance or a misunderstanding of the law.

75 As we have implied, under the first limb of the test, the liquidator is required to provide the basis for his view that the proof was improperly admitted. As stated earlier, a natural corollary of the liquidator's quasi-judicial role in examining proofs of debt is his duty to give reasons when he rejects a proof. In relation to a court-ordered winding up, reg 17 of the CWU Regulations provides for the liquidator's duty to examine every proof of debt filed and, if he rejects a proof, to state in writing to the creditor the grounds of the rejection. Similarly, r 132(5) of the CIR Rules provides that when a liquidator has rejected a proof of debt and a creditor or contributory of the company is dissatisfied with the liquidator's decision and seeks to appeal to the court to reverse or vary the liquidator's decision, "[t]he liquidator must, within 7 days after the receipt of a copy of the application, file the proof with the Registrar, together with a memorandum stating the reasons for the liquidator's decision". Similarly, it must follow that when a liquidator thinks that a proof has been improperly admitted, he has to provide his reasons for so thinking.

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76 There are two requirements here which we distinguish. First, the liquidator must explain why he thinks the proof was improperly admitted, that is, why in his view it should not have been admitted. Second, the liquidator must be forthcoming as to how the improper admission occurred even if this was due to carelessness or lack of thought (as in *Globe Legal Services*).

The second limb: whether the court should expunge or reduce the proof of debt

77 We turn to the second limb of the test, namely, whether the court should expunge or reduce an improperly admitted proof of debt. Here, the use of the permissive "may" in r 133(1) of the CIR Rules makes it clear that even when a liquidator thinks that a proof of debt has been improperly admitted, the court retains the discretion as to whether to expunge or reduce the proof. Thus, the second limb moves from an inquiry into the liquidator's opinion to the *court's* determination of whether the proof of debt should be expunged or reduced.

78 At this juncture, it is pertinent for us to observe that where the court has expunged or reduced a proof of debt pursuant to r 133(1) of the CIR Rules that is the end of the matter, apart of course from an appeal to the Court of Appeal against a decision at first instance. The court's determination under r 133(1) as to the admission (by dismissing the application), expungement or reduction is final. This is line with the scheme in force in insolvency situations where the court is the final arbiter in respect of disputes between the creditor and the liquidator. Rule 132(1) of the CIR Rules provides for an appeal to the court where the creditor or contributory of a company "is dissatisfied with *the decision of the liquidator* of the company" [emphasis added]. Similarly, s 218(5) of the IRDA permits a person who is aggrieved by the *liquidator's estimate* of the value of any provable debt or liability to appeal to the court. In

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that vein, s 218(6) provides that if a *court* finds that an alleged debt cannot be fairly estimated then it is deemed to be a debt not provable in the winding up of the company. There is no other provision in the IRDA or the subsidiary rules and regulations that allows for any further determination of the validity of the proof after the court has decided whether the proof should be admitted or rejected or expunged or reduced.

79 The finality of the court's decision under r 133(1) necessitates that the court determines the actual validity of the proof of debt. This is because, in considering the distribution of the insolvent company's assets, the overriding principle is that the assets of the company should only be distributed to creditors who have debts that have been genuinely created and remain legally due (see, *eg, Fustar (CA)* at [20]). In *Fustar (CA)*, having considered the various cases concerning the liquidator's duty in assessing a proof of debt, we concluded (at [18]) that:

> It seems to us that the overriding concern of the courts in all the above cases was to ensure that legitimate creditors and contributories of a company should not be prejudiced by spurious claims made by related parties under the guise of being creditors.

80 For this part of the inquiry, it is the *creditor* who bears the onus of proving the validity of its debt. This is consistent with reg 5 of the CWU Regulations and the well-established principles of the proof of debt regime.

81 Further, given that the court's determination of the proof's validity must be on a new or "*de novo*" basis since the court is looking into the matter afresh and is not bound by the opinions of the liquidator, it follows that the creditor is entitled to adduce additional evidence in support of its proof that was not

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previously before the liquidator. This is supported by the view of the learned authors in *McPherson & Keay* (at para 12-066), in relation to the UK insolvency regime:

> An appeal to [the] court against the liquidator's rejection of a proof is, it appears, a rehearing de novo, and the court is not confined to the evidence that was before the convener, so either party is therefore entitled to adduce fresh evidence in support of his or her contention.

82 Such further evidence should be raised before the court hearing the application for expungement or reduction *at first instance*. If such evidence is only sought to be raised on appeal against the first instance court's decision, then the usual principles for adducing further evidence on appeal must apply. In summary, the grant of leave to adduce further evidence on appeal is subject to ss 41(4) and 59(4) of the Supreme Court of Judicature Act 1969 (2020 Rev Ed) and the conditions articulated in *Ladd v Marshall* [1954] 1 WLR 1489.

Should the proofs in this case be expunged?

83 We turn now to consider the two limbs of r 133(1) of the CIR Rules in the light of the above discussion and in the context of the facts before us. We will set out the facts before moving on to the application of the law.

The facts before this Court

84 As it appeared that the respondents did not fully appreciate the burden on them to establish the validity of the proofs when they appeared below, we gave them leave to adduce further evidence relating to the weight to be placed on the VesselFinder data that had been adduced in the appeals and also gave leave to the appellants to respond thereto. We were particularly interested in the reliability of the data from VesselFinder since it was that data, coupled with the

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conviction of the controllers of the Dezheng Group on metal financing fraud charges, that indicated that the relevant transactions had not taken place and that the proofs of debt had been improperly admitted.

85 The starting point is the partial admission of the respondents' respective proofs of debt. The Liquidators' August 2015 letters to Inner Mongolia and Shenzhen informed them of the amounts admitted but advised that the disbursement of any dividend was contingent on further investigations into the Company's and related entities' businesses. The Liquidators had, obviously, found the documents submitted in support of the proofs to appear to be in order, but considered that because of the relationships of the parties more investigation had to be done.

86 According to the first affidavit filed by the Liquidator below, Inner Mongolia had provided contracts, bills of lading, receipts and invoices in support of its claims for each of Trades 3 to 6. These had been accepted. However, the data obtained from VesselFinder subsequently showed no record of the relevant vessels being near the ports stated in the contracts and bills of lading during the relevant periods, indicating that the supporting documents may have been fraudulent. The Liquidator exhibited data from VesselFinder showing that:

> (a) For Trade 3, there was no record of the MV *Dream Seas* being near Australia between 1 May 2011 and 31 October 2011. This data contradicted the contract dated 29 June 2011 and the bills of lading dated 13 June 2011 and 19 June 2011 which had indicated that the vessel was in or around the loading port of Bunbury, Australia during the aforesaid period.

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(b) For Trade 5, there was no record of the MV *Sam Eagle* being near Australia between 1 October 2011 and 31 December 2011. This data contradicted the contract dated 16 November 2011 and the bill of lading dated 3 November 2011, which had indicated that the vessel was in or around the loading port of Gove, Australia, during the aforesaid period.

(c) For Trade 6, there was no record of the MV *Liberty Island* being near Australia between 1 November 2011 and 31 January 2012. This data contradicted the contract dated 14 December 2011 and the bill of lading dated 6 December 2011, which had indicated that the vessel was in or around the port of loading of Bunbury, Australia during the aforesaid period.

(d) For Trade 4, the contract dated 16 September 2011 and the bill of lading dated 8 September 2011 stated that the goods had been loaded aboard the MV *Atromitos* at Bunbury, Australia on 8 September 2011. There was no information available, however, on the vessel's movements during the relevant period.

87 Although the Liquidator did not have a record of the movements of the MV *Atromitos*, he took the view that Trade 4 was suspicious as well. The same supporting documents (*ie*, the contracts and bills of lading) in each of the other trades appeared to be forged and/or fraudulent and this strongly suggested that the documentation provided by Inner Mongolia in support of Trade 4 was likely to be forged or fraudulent and the relevant trade had not taken place.

88 As far as the proof filed by Shenzhen was concerned, the VesselFinder data painted a similar picture. Shenzhen had provided a bill of lading dated

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2 March 2014 showing that the cargo was loaded on board the MV *Four Nabucco* at the port of Gove, Australia around that time. The VesselFinder data, however, did not show any sign of the MV *Four Nabucco* being near Australia from the start of February 2014 to the end of April 2014.

89 In a further affidavit filed below, the Liquidator repeated the findings in relation to the movements of the various vessels. He also made comments on the books of the Company which did not show it to be a debtor of Inner Mongolia. Indeed, as far as these records were concerned, they showed that all amounts due for Trades 1 to 6 had already been settled by the Company. The Liquidator disputed the correctness of certain minutes taken at a purported meeting of the Company on 25 November 2014 which stated that the Company had recorded the resale Price Differences for the six trades into its profits for that year. Not only was this an invalid meeting since the directors of the Company had been displaced on the liquidation of the Company, but also the resale Price Differences (if they existed) would have been debts, not profits, of the Company. Nor were such Price Differences recorded in the Company's books or its audited accounts as debts. It should be noted that the Judge agreed that the minutes of meeting did not carry much weight.

90 Inner Mongolia filed an affidavit in response which was affirmed by a Chinese lawyer, one Mr Wang Hong ("Mr Wang"). Mr Wang affirmed that he had been engaged by Inner Mongolia to help it in "this matter", by which he presumably referred to the Liquidator's application. He had no personal knowledge of Inner Mongolia's trading activities. His affirmation that the amount of US$3,257,587 was due to it was entirely based on the documents he had seen (and therefore on the presumption that the documents were genuine). His affidavit took issue with various statements made by the Liquidator and was

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both argumentative and speculative. He contended that the evidence in the Liquidator's affidavits itself disproved the assertion that the transactions were not genuine. As far as the VesselFinder data was concerned, Mr Wang's comment was that in its Terms of Use, Vessel Finder itself made "no representation or warranty of any kind, express or implied regarding the accuracy, adequacy, validity, reliability, availability or completeness of any information on VesselFinder" (we refer to this statement as the "VF Disclaimer").

91 As for Shenzhen, its representative, one Ms Li Xiaowei ("Ms Li"), filed an affidavit explaining the transaction between Shenzhen and the Company and relied on the documents to confirm that the trade was genuine. She did not explain her role in Shenzhen either generally or specifically in relation to the trade in question. She pointed out that the bill of lading was a third-party document issued by the ship's agent, implying that a third party would not have acted fraudulently. Regarding the VesselFinder data, like Mr Wang, she too relied on the VF Disclaimer.

92 Neither Inner Mongolia nor Shenzhen adduced any independent evidence of the respective vessels' whereabouts at the material times (such as vessel logbooks, port records or affidavits from the agents who had attended to the vessels while they were in port), relying in this regard on the various contractual documents that had earlier been furnished to the Liquidator as true indicators of what had occurred in fact.

93 After the hearing in this court, pursuant to the leave granted, the parties filed further affidavits. Inner Mongolia filed a second affidavit from Mr Wang and one from one Mr Parakh Jamshed Dara ("Mr Parakh"). Shenzhen filed a

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second affidavit by Ms Li. The Liquidator filed two affidavits in reply, one by himself and another by one Captain Nicholas White ("Captain White"). We summarise the contents of the same briefly.

94 The new witness for Inner Mongolia, Mr Parakh, affirmed that he is a director of a shipping company in Singapore (Amarant Shipping Pte Ltd) and that he has been engaged in the business of shipping and trading for over 20 years. Mr Parakh asserted that he had extensive experience in shipping operations including the use of vessel tracking platforms such as VesselFinder and "MarineTraffic". According to Mr Parakh, screenshots from VesselFinder alone cannot reliably establish the location of a vessel during a specific period without supporting underlying Automatic Identification System ("AIS") data. The VesselFinder screenshots are only secondary representations of the data and lack crucial details, such as position records, timestamps, coordinates and intervals, which are necessary for verifying the accuracy of the displayed information. Secondly, VesselFinder expressly disclaims the accuracy and reliability of the information provided on its website. This undermines the reliability of the screenshots. Further, the unreliability or incomplete nature of the VesselFinder data is evidenced by the gaps in the data for the MV *Atromitos* and MV *Dream Seas*. Thirdly, the Liquidator's assertions that the underlying trades were fraudulent were inconsistent with the financial records of the Company which showed that the goods were paid for and resold and that the transactions did take place. The bills of lading were signed by a reputable and established shipping agent in Australia.

95 Mr Wang's further affidavit was, again, argumentative. He asserted that the VesselFinder screenshots lacked the necessary reliability to be admitted as evidence as they were inherently unreliable. He did not put forward any

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independent basis for the assertion. Mr Wang also argued that the Liquidator's reliance on examples of cases from other jurisdictions to show that VesselFinder data had been accepted by courts was misguided because in two of those examples, the parties had relied on the actual AIS data provided by VesselFinder and not merely the screenshots and, in the last example, VesselFinder was merely referenced as a general source. He then went on to assert that the Liquidator's assertions of fraud were inconsistent with the Company's records which clearly showed that "the transactions were genuine and legitimate".

96 On behalf of Shenzhen, Ms Li challenged the reliability of the VesselFinder data. She referred to the VF Disclaimer as well as to the lack of relevant daily/hourly information and the underlying AIS data which would allow for the accurate tracking of the vessels. She asserted that Shenzhen had satisfied its burden of proof by the documents produced and these had also been relied on in the arbitration proceedings where no mention of fraud or forgery had been made. She did adduce one piece of additional evidence. This was the result of a search conducted in December 2024 on the website of the General Administration of Customs of the PRC. It indicated that the MV *Four Nabucco* had entered Bayuquan Port at 1600 hours on 16 March 2024 carrying the tonnage of goods as stipulated in the contract and the invoice.

97 The Liquidator stated in his further affidavit that he had commissioned two reports in response to the affidavits filed by Inner Mongolia and Shenzhen. First, his team requested VesselFinder to set out, based on their data, the locations of the vessel involved in Trades 3 to 6 and the trade involving Shenzhen. VesselFinder issued its report titled "Certificate for Rendered Services" on 12 March 2025 (the "VF Certificate"). A copy of the VF Certificate was exhibited to his affidavit. Second, he had obtained an expert

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report from Captain White (the "Report") to respond to the issues raised by Mr Parakh.

98 The Liquidator elaborated on the contents of the VF Certificate. It explained that VesselFinder is one of the leading suppliers of real-time and historical AIS position data. It aggregates data from thousands of terrestrial AIS stations, satellites and shipborne AIS and provides vessel-tracking services. It does so by receiving the AIS position data in its raw format and converting it into a human readable format without any manipulation or alteration. The VF Certificate states that AIS typically provides position accuracy within a few metres but can be less precise in areas with poor GPS satellite coverage. Further, the VF Certificate limits the VF Disclaimer to the accuracy of the underlying AIS position data.

99 In respect of Trades 3, 5 and 6 and the trade involving Shenzhen, the VF Certificate says that the available AIS position data does not show any of the vessels present in either Gove, Australia or Bunbury, Australia, during the relevant periods. In relation to Trade 4 involving MV *Atromitos*, the VF Certificate states that there are three vessels in its database with current or former names containing "Atromitos". The available AIS position data does not show any of these vessels being in or around the port of Bunbury, Australia during the relevant periods. The VF Certificate also enclosed the raw AIS position data that was used to map out each vessel's voyage during the relevant period, *ie*, the bases for the screenshots that the Liquidator had relied upon and exhibited to his first affidavit below.

100 The Liquidator stated that an examination of the raw AIS position data revealed that, for each of the vessels, there was a gap in available data that

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occurred in the middle of the relevant period for each vessel. The date of alleged loading for each of the vessels, and the date of discharge (except for the dates of discharge for MV *Sam Eagle* and MV *Four Nabucco*) were within the gap in available AIS position data for each vessel. The Liquidator considered that the gap in the data around the date of the alleged loading of cargo for each vessel to be consistent with his case that there was no evidence of the vessels being at or near the ports of Bunbury or Gove at the material times. However, AIS position data for each of the vessels was available before and after the dates on which the cargo in question was allegedly loaded on to such vessel.

101 In his affidavit, Captain White testified to his qualifications to be an expert witness. He is a Master Mariner with over 58 years' experience in the maritime industry. Currently, he is a consultant servicing Protection & Indemnity Associations, admiralty lawyers and hull underwriters in respect of claims, disputes and litigation. In the course of carrying out investigations into marine incidents and claims, he has often had to use and analyse AIS data provided by services like VesselFinder and MarineTraffic.

102 Captain White produced the Report in order to deal with three questions put to him by the Appellants' solicitors. These questions concerned:

(a) Where VesselFinder sits in the ecosystem of vessel tracking data providers.

(b) Who uses VesselFinder and how well regarded it is in the maritime industry as a reliable means of tracking vessels.

(c) Possible reasons for why a vessel's AIS data is not available during a period of time that vessel is believed to be on a voyage.

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103 Captain White explained in the Report that AIS is a worldwide automatic positioning system based on fixing small transponders to vessels that continuously transmit a signal to receivers on land and on other vessels. These signals alert the receivers to the position of the transmitting vessel. The position information is supplemented with additional information about the vessel. The data received is typically displayed on a screen using interactive chart-plotting software. AIS is aimed at enhancing the safe navigation of vessels and it also provides information for use by authorities for safety and security purposes (paras 2.1.1 and 2.1.2 of the Report).

104 According to para 2.1.3 of the Report, AIS signals can also be received by suitably equipped, low orbit, satellites. This has given AIS a global reach and allowed its users to locate and track vessels anywhere on the face of the earth. Accordingly, as para 2.3.1 of the Report states, AIS data feeds are used by vessel owners and operators to monitor and manage their fleets. They are also used by many others including port managers, maritime security providers, insurers, marine intelligence analysts and government agencies.

105 There are some limitations in the system. The data may contain corrupt strings of data or manual inputs not correctly entered. At times, a ship's AIS data will show incorrect destinations which are inconsistent with the actual latitude and longitude transmitted by the ship. This is typically due to a manual error or an omission to make an update after a long anchor period.

106 According to para 2.4.3 of the Report, there are also AIS gaps when a ship's data does not appear on AIS at all. AIS gaps are periods of time when the ship stops transmitting its signal, making it impossible to track. This could be because the vessel is in an area without terrestrial stations and beyond satellite

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coverage. It could also be because many vessels are within a small area and the signals are jammed or there are poor weather conditions which interfere with the signals. But, also, ships that are involved in dark activities like smuggling will turn off their AIS. However, not all AIS gaps are intended to hide illegal activity. Most legitimate gaps occur when the AIS transmission simply is not picked up by receiving stations within range of the transmitters. Most AIS gaps resulting from crowding or poor weather conditions are temporary and do not lead to prolonged gaps in the AIS position data.

107 Captain White also opined that commercial AIS data providers have become indispensable for stakeholders across the maritime industry, as they fulfil a crucial role in various operations (para 2.5.1 of the Report). He named six of these providers and stated that VesselFinder and MarineTraffic lead the market. MarineTraffic has an extensive network of over 5,000 data sources while VesselFinder has over 7,000 sources. According to Captain White, this translates to comprehensive tracking capabilities, ensuring that users can monitor the movements of vessels across the oceans. VesselFinder provides real-time AIS data, vessel positions, port calls, voyage information and vessel particulars through its AIS Application Programming Interface. The service can be used to visually represent data collected from the AIS on a nautical chart and this is what was done to display the data relied upon by the Liquidator (paras 3.1.1 to 3.1.3 of the Report).

108 Regarding the VF Disclaimer relied on by the respondents, Captain White explained that it is a disclaimer published by other tracking services as well. This is because AIS data providers have no way to verify that the AIS data being transmitted by each vessel is correct. However, the disclaimer does not undermine the reliability of the raw AIS data provided, nor

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subsets of data which are used to visually represent data collected from the AIS onto nautical charts.

Applying the law to the facts

109 Arising from our earlier discussion as to the test applicable to determine an application under r 133(1) of the CIR Rules, the first question we consider is whether the Liquidator's opinion that the proofs submitted by Inner Mongolia and Shenzhen were improperly admitted is reasonable. In this regard, the Judge's decision below that they were not improperly admitted was based on his holding that the Liquidator had the burden of showing that the admission was improper on a balance of probabilities. We have held that all a liquidator has to show is that he thinks, on reasonable grounds, that a mistake has been made and if it had not been for that mistake the proof would have been rejected.

110 Applying that standard to the facts here, we are satisfied that the Liquidator has shown a reasoned basis for his assertion that a mistake was made when the proofs were admitted and that if he had known then what he subsequently discovered, the proofs would have been rejected. First, we consider the circumstances in which the proofs were admitted.

111 In relation to the transactions with Inner Mongolia, at the time the proof was submitted, the Company's books showed that it had made purchases from Shenzhen (presumably acting as agent for Inner Mongolia) in respect of Trades 1 to 6 and had settled the amounts due to Shenzhen in full. The books for the period from 2011 to 2014 did not show any outstanding amounts owing to Inner Mongolia in respect of Trade 1 to 6 or at all. However, the proof was accompanied by a number of standard trade documents which purportedly evidenced the Trades and that the amounts for Trades 3 to 6 were due. The

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Liquidators admitted the proof for these trades but, being aware of the relationship between Inner Mongolia and the Company and the allegations of fraudulent metal trading that had led to the downfall of the Dezheng Group, told Inner Mongolia that there would be no dividend distribution until their investigations into the Company's affairs were completed.

112 The circumstances surrounding the admission of Shenzhen's proof were similar. Apparently valid and standard trade documents were submitted to the Liquidators in support of the proof and the underlying trade. The Liquidators subsequently admitted a debt of US$15,033,882.15 out of a sum of US$28,750,000 claimed. Shenzhen was told, however, that dividend distribution would be withheld until the outcome of investigations into the Company's affairs.

113 Returning to the facts, after the conviction of the controllers of the Dezheng Group on metal financing fraud charges, further investigations resulted in the Liquidator obtaining data from VesselFinder which supported the previous doubts. The data indicated that three of the vessels involved in Trades 3 to 6 and the vessel involved in the contract with Shenzhen were not anywhere near the declared ports of lading shown on the relevant bills of lading around the times when the cargoes were said to be loaded. The movements of the fifth vessel (for Trade 4) were entirely untraceable during the relevant period. The Liquidator considered VesselFinder to be a reliable vessel tracking service. He explained in the court below that it was an automatic tracking system using transmitters on ships which provided historical vessel tracking information based on historical AIS data captured by land-based AIS stations and satellites. The transmitters are required to be fitted on board all ships undertaking international voyages by the 1974 International Convention for the

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Safety of Life at Sea (adopted on 1 November 1974), 1184 UNTS 2 (entered into force 25 May 1980, accession by Singapore 16 March 1981). The Liquidator also explained that although there was no data on the movements of MV *Atromitos* carrying the cargo for Trade 4, given that the same supporting documents in each of the other Trades appeared to be forged or fraudulent, this strongly suggested that the documentation for Trade 4 was fraudulent too and the relevant trade had not taken place.

114 The data from VesselFinder coupled with the metal financing fraud convictions and the relationship between the Company and Inner Mongolia and Shenzhen persuaded the Liquidator that the proofs had been improperly admitted. In our opinion, the Liquidator had reasonable grounds for his views and was entitled at that time to rely on the VesselFinder data as coming from an independent, established and credible source using established technology. We are satisfied that if the Liquidator and his co-liquidator at the material time had all the information that subsequently came to hand, the proofs filed by Inner Mongolia and Shenzhen would have been totally rejected.

115 This of course is not the end of the matter. The second step is to determine whether the respondents have discharged their burden to show on the balance of probabilities that their respective proofs of debt reflect actual debts. To discharge this burden, the respondents rely on all the alleged contractual documents, the records of the Company that they previously referred to, some extra documents like the Arbitral Award, and the document evidencing the arrival of the MV *Four Nabucco* at the port of discharge. They also refer to the affidavit of Mr Parakh, which they say casts doubt on the reliability of the VesselFinder data.

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116 We observe, first, that in relation to Mr Parakh, it is unclear whether he has given evidence as a factual witness or as an expert. If Mr Parakh was put forward as an expert, then his affidavit should have met the requirements of an expert opinion as set out in O 12 r 5(2) of the Rules of Court 2021. It did not do so. This undermines the weight of Mr Parakh's testimony since his evidence is, essentially, opinion evidence and only experts may give opinion evidence. We note also that although Mr Parakh purported to doubt the reliability of the VesselFinder data, he admitted that he had used VesselFinder's services himself but did not recount any precautions he had taken (or felt necessary to undertake) to countercheck the information supplied. Also, Mr Parakh's impartiality was undermined by his contention that the Liquidator's assertions that the underlying trades were fraudulent were inconsistent with the financial records of the Company. Mr Parakh had no basis on which to make any comment regarding the financial records of the Company – his statement was pure hearsay. Overall, not much weight can be assigned to his evidence. In any event, we are satisfied that Mr Parakh's testimony does not undermine the reliability of the VesselFinder data adduced in this case.

117 We accept that Captain White is an expert in this field given his many years of experience in the marine industry and his role in investigating all types of marine incidents, in the course of which he has frequently used and relied on data supplied by data-tracking services. We therefore accept his evidence that VesselFinder is a leading player in the vessel tracking data ecosystem and a market leader for commercial AIS data providers. Due to its 7000 sources, it has global coverage with comprehensive tracking capabilities.

118 Secondly, the respondents' point that the Liquidator had not adduced evidence of the underlying AIS data has now been dealt with by the Liquidator.

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The VF Certificate sets out that AIS data for each of the vessels during the relevant period. It states categorically that "the available AIS data do not show any of the vessels present in either Gove, Australia, or Bunbury, Australia, during the relevant periods".

119 Thirdly, the respondents' argument that the VesselFinder data are not reliable because of the VF Disclaimer (which impressed the Judge) has been rebutted by the Liquidator and Captain White. The Liquidator pointed out that this concern may be partially addressed by the fact the VF Certificate limits its disclaimer to not guaranteeing the accuracy of the *underlying* AIS position data, as opposed to the *graphical representation* of that data (*ie*, the screenshots). Further, Captain White explained that AIS data providers have no way to verify that the AIS data being transmitted by each individual vessel is correct. The fact that VesselFinder wishes to protect itself from legal liability does not necessarily mean that its data is unreliable. We agree. If for some reason any vessel has transmitted incorrect information, that can be established by reference to the vessel's logs and charts for the relevant period. We note that the respondents have, apparently, not even attempted to ascertain from the owners or operators of the relevant vessels whether there is other evidence of their respective positions during the relevant periods.

120 Moving to another point, Mr Parakh had referred to the gaps in the AIS data for the MV *Atromitos* and MV *Dream Seas*. He suggested that the existence of such gaps proved the unreliability of the VesselFinder data. But Captain White had explained that there are a variety of reasons for gaps in AIS data including transmission issues, poor reception, crowded conditions or even the deliberate switching off of the transmitters. He also pointed out that gaps in data do not mean that the AIS data received is not guaranteed to be accurate, reliable

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or complete such that the reliability of the information displayed on the VesselFinder website is undermined.

121 Shenzhen had brought up another point. This related to its search which showed that the MV *Four Nabucco* was at the discharge port indicated in the bill of lading during the correct time period. It argued that this indicated its documents were genuine. But, as the Liquidator submitted, the search results are in fact consistent with the VesselFinder data and, more importantly, do not indicate that the vessel was at Gove, Australia (the supposed port of loading) at the material time. The fact that the vessel discharged cargo of the right type and quantity at the right time does not tell us where or when the cargo was loaded or for whom. Thus, this search has no impact on the reliability of the VesselFinder data.

122 On a consideration of all the evidence, we are satisfied that the VesselFinder data adduced by the Liquidator is reliable and provides strong grounds for suspecting that the documents adduced by the respondents in support of their respective proofs of debt are forged or otherwise fraudulent.

123 The respondents assert that the other supporting documents showed that the underlying trades took place. But, as the Liquidator has shown, there are inconsistencies in the supporting documents regarding Inner Mongolia's trade (and in fact the Company's records show no amount due to Inner Mongolia but instead reflect that these trades concerned Shenzhen, and that Shenzhen had been fully paid for the same). Additionally, there is the broader context of the metal financing fraud and the conviction of the Dezheng Group's controllers to be considered. Indeed, the demise of the Company came about when banks

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discovered that the Dezheng Group was using the same inventory to fraudulently obtain financing from several banks.

124 In the final analysis, the respondents have not been able to discharge their burden to show on the balance of probabilities that their respective proofs of debt are valid and based on genuine debts. The proofs filed by Inner Mongolia and Shenzhen and admitted by the Liquidators must, therefore, be expunged.

Conclusion and Costs

125 In the result, we allow the appeals of the Liquidator and the Company and set aside the orders made below. We expunge as per the original prayers in the summonses filed by the Liquidator:

(a) the amounts admitted in the proof of debt filed by Inner Mongolia Huomei-Hongjun Aluminium Electricity Co, Ltd; and

(b) the proof of debt filed by Shenzhen Huomei-Hongjun Aluminium Trading Co, Ltd.

126 The respondents were each awarded costs of $12,000 (all in) in the court below. We set aside those orders. The appellants have submitted that in the event of the appeals succeeding they should be awarded for the hearing below the same amount of costs against each respondent. We accept this submission and order that in respect of the costs incurred in the court below, each respondent shall pay the appellants $12,000 (all in) as costs.

127 As for the costs of the appeals, these must be awarded to the appellants.

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128 On the quantum of costs, the appellants originally sought costs of $25,000 from each of the respondents. They now seek $40,000 in legal costs against each of them plus an additional amount of $3,969.34 jointly and severally from the respondents being filing fees, printing charges and commissioning fees for the appeals. Further, as against Inner Mongolia alone, the appellants seek reimbursement of $6,944.40 being disbursements incurred for Captain White's expert opinion and affidavit which had to be filed to respond to Mr Parakh's affidavit filed by Inner Mongolia. We agree that an uplift is appropriate in view of the extra work the appellants had to put in for the appeal. We also note that the respondents have each indicated they would seek legal costs of $35,000 each in the event of the appeals being dismissed. We fix the costs payable for the appeals at $40,000 (all in) per respondent and also order Inner Mongolia to pay an extra $6,944.40 being reimbursement of Captain White's fees.

Sundaresh Menon
Chief Justice

Kannan Ramesh
Judge of the Appellate Division

Judith Prakash
Senior Judge

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Rajan Menon Smitha, Chng Zi Zhao Joel, Toh Yong Xiang and Qiu Ziyun Joanna (WongPartnership LLP) for the appellants;
Yap Neng Boo Jimmy (Jimmy Yap & Co) for the respondent in CA/CA 32/2024; and
Koh Weijin Leon, Elsie Lim Yan and Chng He Han (N S Kang) for the respondent in CA/CA 33/2024.

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