

FAQs ON SUBMISSION OF CLAIMS TO INTERIM RESOLUTION
PROFESSIONAL IN THE MATTER OF

M/S. ATS Heights Private Limited (In CIRP)

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Disclaimer: The FAQs below and their responses are our attempt to help potential claimants and are purely for informal guidance. This is neither a legal or professional advice, nor are the responses any statutory/adjudicatory authority's views. Claimants may consult their respective advisers in case of any doubt.

Kindly refer to the FAQs below for any clarification with respect to your claims and submission thereof. Please note that claims which are not in accordance with the requirements of the Code and the Regulations are liable to be ignored/rejected and the consequences would be that the claimant may not participate in the process.

Further these FAQs are continuously being updated by IRP by incorporating new queries to increase the effectiveness and coverage of the FAQs. Please check the updated FAQs at <http://gauravkatiyar.in>.

Please have a look at aforesaid website to have each and every update about these proceedings. [Please go in IBC matters tab button available at the main page of the website].

BACKGROUND/GENERAL

1. Name of company in which Hon'ble NCLT had ordered Corporate Insolvency Resolution Process (CIRP)?

The Hon'ble National Company Law Tribunal (NCLT) had ordered the Corporate Insolvency Resolution Process (CIRP) of M/s. ATS Heights Private Limited.

2. What is the Company Petition No in which such order is passed by the Hon'ble NCLT?

The Hon'ble NCLT had ordered the CIRP of M/s. ATS Heights Private Limited in C.P. No. IB-570/ND/2023.

3. From where I can get the order passed by the Hon'ble NCLT?

The order passed by the Hon'ble NCLT can be downloaded from the below mentioned link:

[https://nclt.gov.in/case-
details?bench=ZGVsaGk=&filing_no=MDcxMDEwMjA3NzY1MjAyMw==](https://nclt.gov.in/case-details?bench=ZGVsaGk=&filing_no=MDcxMDEwMjA3NzY1MjAyMw==)

4. What is the meaning of Corporate Insolvency Resolution Process (CIRP)?

As such there is no specific definition of CIRP provided in the Insolvency and Bankruptcy Code' 2016. However, broadly it can be said that M/s. ATS Heights Private Limited has done the "default" in payment of liabilities, hence the financial position of M/s. ATS Heights Private Limited is not very well and CIRP is the process through which creditors of the M/s. ATS Heights Private Limited can detect that whether the company can be revived or go on as a going concern before the liquidation and what are the possibilities of revival of the M/s. ATS Heights Private Limited before its liquidation.

5. Who will conduct the Corporate Insolvency Resolution Process (CIRP)?

The Hon'ble NCLT had appointed Mr. Gaurav Katiyar, as Interim Resolution Professional (IRP), who shall act as IRP for initial period of Thirty (30) days. After the expiry of the said 30 day period, the Committee of Creditors (CoC) shall

appoint one Resolution Professional, which may also be the interim resolution professional.

6. How long the Corporate Insolvency Resolution Process (CIRP) will run?

As per section 12 of the I & B Code' 2016, the CIRP has to be concluded within one hundred and eighty (180) days, however the period of one hundred and eighty (180) days can be extended to Three Hundred and Thirty days (330).

7. What will happen after the expiry of CIRP period?

Either the insolvency of M/s. ATS Heights Private Limited will be resolved or the M/s. ATS Heights Private Limited will go into the liquidation.

8. What is the meaning of Committee of Creditors (CoC) and who are its members?

Committee of Creditors shall be the body comprising the creditors of M/s. ATS Heights Private Limited. Generally, the Financial Creditors are the members of the CoC.

9. What is the role/function of Committee of Creditors (CoC)?

After the constitution of CoC the CIRP is conducted on the instructions of the CoC and all the voting powers of the Board of Directors of the company are vested in the members of CoC.

10. Who are the financial creditors?

As per section 5(7) of the I & B Code' 2016 "Financial creditor" means any person to whom a financial debt is owed and includes a person to whom such debt has been legally assigned or transferred to. Further, section 5(8) of the I & B Code' 2016, defines the terms "Financial Debt".

11. Who are the operational creditors?

As per section 5(20) of the I & B Code' 2016 "operational creditor" means a person to whom an operational debt is owed and includes any person to whom such debt

has been legally assigned or transferred. Further As per section 5(21) of the I & B Code' 2016, "operational debt" means a claim in respect of the provision of goods or services including employment or a debt in respect of the payment of dues arising under any law for the time being in force and payable to the Central Government, any State Government or any local authority.

12. Forms required to be filed by the Creditors?

Form B: Proof of Claim by operational creditors except workmen and employees

Form C: Submission of claim by financial creditors

Form CA: Submission of claim by financial creditors in a class

Form D: Proof of claim by a workman or an employee

Form E: Proof of claim submitted by authorised representative of workmen and employees

Form F: Proof of claim by creditors (other than financial creditors and operational creditors)

13. From where the forms required to be filed by the Creditors can be downloaded?

The forms required to be filed by creditors can be downloaded from the below mentioned link:

<http://www.ibbi.gov.in/home/downloads>

Please use available in serial No-1 only.

14. Whether downloaded form can be filled by hand or computerized filled form is required?

The downloaded form may be filled by hand or may be typed in computer. Claim form must be duly signed by the claimants else it may be rejected/ ignored.

QUERIES PERTAINING TO FLAT/SHOP/COMMERCIAL SPACE BUYER OF M/S. ATS HEIGHTS PRIVATE LIMITED

- 15. I am a flat/shop/commercial space buyer of M/s. ATS Heights Private Limited, which form is applicable to me?**

In case of flat/shop/commercial space buyer of M/s. ATS Heights Private Limited Form CA is required to be filled.

- 16. Do I still require to file Form CA if I purchased flat/shop/commercial space buyer from other group companies and not from M/s. ATS Heights Private Limited?**

No.

- 17. What is the time limit of filing of Form CA?**

Form CA should be filed within 14 days (i.e. 09.05.2024) from the date of appointment of IRP.

However, it can also be filed within 90 days from the commencement of CIRP i.e. 21.07.2024.

- 18. What if, I am a flat/shop/commercial space buyer of M/s. ATS Heights Private Limited and don't file the Form CA?**

Then you will be left out of the Corporate Insolvency Resolution Proceedings. Generally and broadly, during CIRP, the Hon'ble NCLT, CoC, IRP/RP takes care of interest of the creditors who had filed their respective forms and in absence of your Form CA, you may be left out from their considerations.

- 18A How can I file the Form CA?**

Form CA has to be mandatorily filed in electronic mode. In the present case please file the duly filled, signed and scanned Form CA along with relevant supporting documentary evidence @ atsheights.cirp@gmail.com .

18B Can I claim interest in Form CA?

Yes. However, IRP/RP will examine whether you are entitled for any interest, but you can claim.

18C At what rate I can claim interest?

The rate of interest shall be as per the terms and conditions of the agreement/contract with builder. In case no interest rate mentioned in agreement/ contract then the voting share of a creditor in a class (i.e. real estate allottee) shall be considered after considering interest at the rate of eight per cent per annum.

18D Till when I can claim interest?

The interest can be claim till date of commencement of CIRP i.e. 22.04.2024. Beyond 22.04.2024, no interest will be admitted by the IRP.

19. What documents I am supposed to annex along with Form CA?

The general rule is buyer can annex any paper to show/prove that the buyer had purchased/booked the flat in M/s. ATS Heights Private Limited and paid the amount of consideration.

Generally, these papers are sufficient:

- Calculation sheet showing the calculations of amount of debt (*preferably in MS-excel format*);
- Allotment letter issued by M/s. ATS Heights Private Limited;
- Payment Receipts issued by M/s. ATS Heights Private Limited;
- Statement of Account, if any, issued by M/s. ATS Heights Private Limited;
- Memorandum of Understanding /Builder Buyer Agreement;
- Bank Statement showing the payments made to M/s. ATS Heights Private Limited;
- TDS statement, if deducted;
- Copy of cancelled cheque
- Any other document, if relevant.

- 20. What if, Statement of Account issued by M/s. ATS Heights Private Limited is not available with me?**

Then please fill Form CA on the basis of other documents available with you, the IRP shall try to get your Statement of Account from the management of the company.

- 21. Can I requests/write mail to the IRP/RP to issue my Statement of Account from M/s. ATS Heights Private Limited?**

The IRP is an outsider appointed by the Hon'ble NCLT. The RP knows very little about the records, documents, software and files of the company. In such situation the outcome of your request will depend on the cooperation of the management of the company. Hence, under these circumstances, the IRP will try to arrange the same but cannot promise/assures to provide the same.

- 22. Can IRP/RP reject my claim if Statement of Account issued by M/s. ATS Heights Private Limited is not available with me?**

No. In that case please provide other relevant documentary evidence available with you, IRP/RP is will consider the same.

- 23. Once I file my claim is the IRP/RP bound to admit it?**

No. If the claimant is not able to prove his debt, then the IRP/RP has to right to reject or partially admit the claim.

QUERIES RELEVANT FOR OPERATIONAL CREDITORS OF THE COMPANY

- 24. I am an Operational Creditor of the Company. Which Form should I use to file my claim?**

An Operational Creditor, other than a workman or employee, will have to fill in **Form B** along with the Declaration and Verification, provided under Schedule of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016

("CIRP Regulations") and submit it to the Interim Resolution Professional (IRP) (Mr. Gaurav Katiyar) of the Corporate Debtor.

25. How should an Operational Creditor, (other than workmen and employee) submit the Form (proof of claim) to the IRP?

An Operational Creditor shall submit the Form to the IRP in *person*, by *post* or by *electronic means*.

26. What is the time limit of filing of Form B?

Form B should be filed within 14 days (i.e. 09.05.2024) from the date of appointment of IRP.

However, it can also be filed within 90 days from the commencement of CIRP i.e. 21.07.2024.

27. What if, I am an operational creditor of M/s. ATS Heights Private Limited and don't file the Form B?

Then you will be left out of the Corporate Insolvency Resolution Proceedings. Generally and broadly, during CIRP, the Hon'ble NCLT, CoC, IRP/RP takes care of interest of the creditors and in absence of your Form CA, you may be left out from their considerations.

28. Should a Form for filing proof of claim accompany any documentary evidence?

Yes. Every Form for filing proof of claim of a creditor shall be supported by documentary evidence. *An Operational Creditor may support his/its claim with invoice/bill of supply of goods/services or any other relevant documentary proof.*

29. What is the format of the Declaration required to be filed along with the proof of claim?

The format of Declaration is provided in Schedule in respect of each Form for filing proof of claim.

- 30. Each Form for submission of proof of claim by a creditor requires particulars of mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim made by the creditor. What is meant by such particulars?**

There might be instances where debt may also be owed by the creditor towards the Corporate Debtor. Such debts may be referred to as mutual debts/credits between the Corporate Debtor and creditor, which may be set off against the debt/claim of the creditor. In such case, the creditor shall mention the particulars of such mutual debt in the specified space provided in the respective Form for filing proof of claim.

For example: A Ltd. is a Corporate Debtor owing debt amounting to INR 1000 to OC Ltd. an Operational Creditor for goods supplied by OC Ltd. A Ltd. is in the business of providing HR consultancy services. In its course of business, A Ltd. provided services to OC Ltd., consideration for which amounting to INR 400 is yet to be paid by OC Ltd. Such INR 400 shall be referred to as mutual debt between A Ltd. and OC Ltd. which may be set off against the claim of OC Ltd. amounting to INR 600. Particulars of such mutual debt have to be mentioned in Form B for submission of proof of claim by an Operational Creditor.

QUERIES RELEVANT FOR ALL THE CREDITORS OF THE COMPANY

- 31. How does the IRP/RP check the claim?**

The IRP/RP will consider the documentary proof filed by the creditor along with his claim. In case of any discrepancy the IRP/RP has right to ask for further documents/clarification from the creditor who is bound to provide the same.

The IRP/RP shall also consider the books of accounts and other records of the company, if the same is available to him.

- 32. What if, I submitted my claim with lesser amount and after some time I found that I am entitled for large amount?**

Please immediately connect with your RP along with relevant documentary proof. Your RP has powers to vary your claim.

33. Does filing of claim means that the Corporate Debtor or the IRP/RP is going to pay me money?

A successful submission of claim by a creditor is not a confirmation/assurance of receipt of debt due. It is merely a representation that a debt is due of respective amount and nature.

34. What if I submit a wrong claim or inflate the claim amount, or write wrong particulars?

The submission of a claim is supported by your declaration, wherein you are swearing on oath that the particulars are true and correct. Please evaluate the serious implications of doing so.

Your claim forms the basis of the RP computing the liquidation value of the assets and liabilities of the Corporate Debtor. Therefore, you must ensure that the particulars submitted by you are true and correct.

35. My claim was disputed by the Corporate Debtor. Can I still submit the claim?

Yes, but then you must make it clear in your submission, that the Corporate Debtor has disputed the claim.

36. I have a contingent claim. Can I submit such claim?

Yes, but then you must make it clear that the claim is contingent, and clarify the contingency as well.

37. I am holding some securities/assets of the Corporate Debtor against my claim. Should I still submit the claim?

Yes. The assets of the Corporate Debtor form part of its liquidation estate, and your claim ranks as per priority order. Therefore, you must submit the claim and disclose the particulars of the assets/securities you are holding.

38. How do I contact the RP of the Corporate Debtor ?

Please send email to atsheights.cirp@gmail.com.

39. Can I call the RP?

Communication through emails will be preferred.

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