PROCESS HOW HOMEBUYERS CAN CLAIM REFUND – JAYPEE INFRATECH

SHORT SUMMARY:

In this editorial author discuss the provisions of IBC, 2016 in relation to claim of home buyers from Insolvency Resolution Professional. The author shall discuss the situation of home buyers of Jaypee Infratech along with IBC (Insolvency Resolution Process form Corporate Person) (**Amendment) Regulations, 2017.** The main thrush of this article is to discuss the process **"How Home Buyers can file the claim against Jaypee Infratech?"**

INTRODUCTION:

Under IBC, 2013 creditors are dividing into two Categories i.e. Financial Creditor and Operational Creditor. Once a case is admit and IRP appoint by the NCLT. Creditors can claim for their dues in following forms:

- Form B: For claims by operational creditors
- Form C: For claims for financial creditors
- Form D: For claims by workmen and employees

However, Home-Buyers don't fall under above mentioned categories neither as Financial Creditor nor as Operational Creditor. There is some confusion among homebuyers regarding the forms for submission of claims from above mentioned 3 forms.

HIGHLIGHTS

- The National Company Law Tribunal appointed an insolvency professional on Thursday 10th August, 2017 for Jaypee Infratech.
- The company has a total debt of around Rs 8,000 crore
- Among Jaypee's pending projects is the 800-acre Wish Town in Noida Sector 128, which has 32,000 apartments.
- The creditors of Jaypee Infratech Ltd have been called upon to submit a proof of their claims on or before 24th August 2017 to the Interim Resolution Professional.
- Insolvency resolution professional has decided to accept whichever form Jaypee homebuyers' claims are filed in.
- Confusion had arisen over forms because the law makes a distinction between financial creditors, which are banks and operational creditors.
- Make Sure claim submit by Creditors before 24th August, 2017.

On the other hand, The Insolvency and Bankruptcy Board of India (IBBI) on Wednesday added a new form to enable homebuyers, such as those who have invested in Jaypee projects, to make their claims, recognising the problem with existing forms that were meant only for banks, other creditors and employees.

Brief Summary about the Case:

Jaypee Infratech is the first housing Company that had entered insolvency proceeding. In case of real estate company which is in the middle of constructing homes becomes challenging, especially for buyers.

Home Buyers who have not received possession of their flats are frustrated, even more anxious as the insolvency proceedings begin against Jaypee Infratech, a real estate developer.

In the case of Jaypee Infratech, about 32,000 people have booked flats but just 5,500 have received possession. Some of these bookings were made way back in 2008. Many of the buyers are middle class families who have invested all their savings in the project.

Question: The insolvency proceedings initiated by the National Company Law Tribunal against Jaypee Infratech ***have left thousands of homebuyers in the lurch.*** What should home buyers do in such cases?

There is no need to panic by home buyers. If they have also bought a flat in Jaypee and their flat has not been delivered. Then here are few things they need to do:

Make Claim to IRP:

There are confusions between home buyers, professionals, other persons etc. in which form home buyers should claim their due, Form B is meant for claims by operational creditors, Form C is for claims by financial creditors, and Form D is for claims by workmen and employees. Home buyers don't fall in any of above three categories.

Amendment by the Insolvency Board

Insolvency and Bankruptcy Board of India issued a Notification dated 16th August, 2017 regarding amendment in IBC regulation. These regulations may be called the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2017.

By this Amendment after section 9 of IBC a ***new section 9A inserted*** *as follow:*

9A Claims by other creditors.

(1) A person claiming to be a creditor, other than those covered under regulations 7, 8, or 9, shall submit proof of its claim to the interim resolution professional or resolution professional in person, by post or by electronic means in ***Form F*** *of the Schedule.*

(2) The existence of the claim of the creditor referred to in sub-section (1) may be proved on the basis of –

(a) the records available in an information utility, if any, or

(b) other relevant documents sufficient to establish the claim, including any or all of the following:—

(i) documentary evidence demanding satisfaction of the claim;

(ii) bank statements of the creditor showing non-satisfaction of claim;

(iii) an order of court or tribunal that has adjudicated upon non-satisfaction of claim, if any."

HOW FLAT OWNER CAN FILE CLAIM:

(Proof of Claim by Creditor (other than Financial / Operational Creditor)

STEP – I ...... Download the **Form – F** from the link;

http://www.ibbi.gov.in/AMEND_CIRP.pdf

STEP –II ...... Form can be file through Post or through electronic means; . (submission by hand delivery is not allowed)

STEP –III ...... Proof shall be submitted with Interim resolution professional;

STEP –IV ...... Document Attachment with the Form;

i. Documentary evidence demanding satisfaction of the claim;
ii. Bank Statement of the Creditor showing non-satisfaction of claim;
iii. an order of court or tribunal that has adjudicated upon non-satisfaction of claim, if any"
iv. Duly Notarized Affidavit – prescribed with Form F

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