

Basis of claim calculation :

Scenario 1: Where only single MOU exists with no change in allocated unit. This MOU prevails till CIRP Date (03rd Aug 18) with no New MOU entered into.

- i) Principal is taken as per original payment made by the investor. Any payment made towards service tax or other charges are not included in the principal payable as this is part of Govt. liability and needs to be paid to Govt. Authorities and not investor. This portion will be booked as liability in books of accounts of IRAL and needs to be remitted to Govt. authorities finally (if outstanding till date) and cannot be remitted to investor in any case.
- ii) In the list of Form –B, Excise and service tax department has filed a claim of Rs 47.99 crores against service tax collected but not deposited by the company with interest and penalties. Therefore, all dues government liabilities will be directly paid to the government authorities only.
- iii) Any Principal payment received in cash without supported by original receipts issued from IRAL cannot be considered for claim.
- iv) Assured Return (AR) is calculated as per terms specified in the MOU. Start date of AR payable to investor is clearly mentioned in the MOU and accordingly is calculated.
- v) Assured Returns are calculated till 03 August 2018 (*Date of CIRP initiation*)
- vi) Interest is calculated @ 8% P.A on outstanding Assured return with daily rest. Assured return received from IRAL (if any) is deducted from that particular month dues of AR for which the payment is received from IRAL. FIFO method is not applied. This has an impact on the Interest calculation also.
- vii) TDS deducted at the time of payment of Assured return but not deposited to the Income Tax Authority will not be remitted back to the claimant and need to be made payable as “TDS Received but not deposited” in Books of Account and have to be deposited with Income tax. If this amount is claimed by investor, same is not considered.
- viii) Total payment received back from IRAL in the form of Assured Return is deducted from the claim liability. Also, any payment received back on order of NCLT is deducted at adhoc basis.
- ix) Since the Company has never been in position to sub lease the property for any commercial use therefore Capitalization clause cannot be invoked and thereby any capitalized amount claimed has not been admitted.

Scenario 2: Where multiple MOUs are signed by the investor but the registry is not done

- i) Principal Amount will be considered as the Cumulative Principal payment made to IRAL for all the MOUs entered by the investor. Any additional principal paid will be added in the claim amount if mentioned in the latest MOU.
- ii) Any payment made towards service tax or other charges are not included in the principal payable as this is part of Govt. liability and needs to be paid to Govt. Authorities and not the investor. This portion will be booked as liability in Books of Accounts of IRAL and needs to be remitted to Govt. authorities finally (if outstanding till date) and cannot be remitted to investor in any case. *(Ps Note: In the list of Form –B, Excise and service tax department has filed a claim of Rs 47.99 crores against service tax collected but not deposited by the company with interest and penalties. Therefore, all dues government liabilities will be directly paid to the government authorities only).*
- iii) Any Principal payment received in cash without supported by original receipts issued from IRAL cannot be considered for claim.
- iv) Assured Return (AR) is calculated as per terms specified in the latest MOU. Start date of AR payable to investor is clearly mentioned in the latest MOU and accordingly is calculated. As per the wording of the MOU, Latest MOUs have the overriding impact on all the previous MOU and hence Assured return dates get changed. The MOU is worded as under
“That upon the execution of this MOU, all previous understandings, agreements, etc shall stand over-riden and this MOU shall have the overriding effect over any other document, letter, contracts etc. These terms cannot be varied unless so agreed in writing and signed by both the parties.”
- v) Old unpaid ARs adjusted in new MOU by way of increased rental or change in space is not considered in the claim.
- vi) Assured Returns are calculated till 03 August 2018 *(Date of CIRP initiation)*.
- vii) Interest is calculated @ 8% P.A on outstanding Assured return above with daily rest from the respective due date of assured return till the date of commencement of CIRP. Assured return received from IRAL (if any) is deducted from that particular month dues of AR for which the payment is received from IRAL. FIFO method is not applied. This has an impact on the Interest calculation also.
- viii) Only those AR payment received after latest MOU date are adjusted with the claim amount as new MOU have overriding impact on all previous MOUs unless specifically provided. AR

- payment received back from IRAL in relation to old MOUs are ignored and not deducted from the claim amount.
- ix) TDS deducted at the time of payment of Assured return but not deposited to the Income Tax Authority will not be remitted back to the claimant and need to be made payable as “TDS Received but not deposited” in Books of Account and have to be deposited with Income tax. If this amount is claimed by investor, same is not considered.
 - x) Any payment received back on order of NCLT is deducted at Ad-hoc basis.
 - xi) Since the Company has never been in position to sub lease the property for any commercial use therefore Capitalization clause cannot be invoked and thereby any capitalized amount claimed has not been admitted.

Scenario 3: Where Registry is done

- i) Principal Amount will be considered as the Cumulative Principal payment made to IRAL for all the MOUs entered by the investor **and** mentioned in the registry specifically.
- ii) Any payment made towards service tax or other charges are not included in the principal payable as this is part of Govt. liability and needs to be paid to Govt. Authorities and not the investor. This portion will be booked as liability in Books of Accounts of IRAL and needs to be remitted to Govt. authorities finally (if outstanding till date) and cannot be remitted to investor in any case. *(Ps Note: In the list of Form –B, Excise and service tax department has filed a claim of Rs 47.99 crores against service tax collected but not deposited by the company with interest and penalties. Therefore, all dues government liabilities will be directly paid to the government authorities only).*
- iii) Any Principal payment received in cash without supported by original receipts issued from IRAL cannot be considered for claim.
- iv) Assured Return (AR) is calculated as per terms specified in the registry. Start date of AR payable to investor is clearly mentioned in every registry and accordingly is calculated. As per the wording of registry, it has overriding impact on all the previous MOU and hence Assured return dates get changed. Normally Clause 22 of the registry under the heading “Entire Agreement” is having the overriding impact of the registry also impacting the AR. It is worded as under:
“This agreement along with its annexure and the terms and conditions contained in the application constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all the understanding ,any other agreements,

correspondence, arrangement whether written or oral. This agreement or any provision hereof cannot be orally changed, terminated or waived.

- v) Post Registry, old unpaid ARs will be adjusted as per terms of registry or in accordance with MOU mentioned in the registry (start date and rental amount) will apply.
- vi) Assured Returns are calculated till 03 August 2018 (*Date of CIRP initiation*).
- vii) Interest is calculated @ 8% P.A on outstanding Assured Return above with daily rest from the respective due date of assured return till the date of commencement of CIRP. Assured return received from IRAL (if any) is deducted from that particular month dues of AR for which the payment is received from IRAL. FIFO method is not applied. This has an impact on the Interest calculation also.
- viii) Only those AR payment received after registry date are adjusted with claim amount registry has forward superseding impact on all previous MOUs unless specifically provided.
- ix) AR payment received from IRAL in relation to old MOUs are ignored and not deducted from the claim amount.
- x) TDS deducted at the time of payment of Assured return but not deposited to the Income Tax Authority will not be remitted back to the claimant and need to be made payable as “TDS Received but not deposited” in Books of Account and have to be deposited with Income tax. If this amount is claimed by investor, same is not considered.
- xi) Any payment received on order of NCLT is deducted at Ad-hoc basis.

Scenario 4: Where Termination Agreement is signed and PDCs are issued

- i) In this cases, Investor has opted to exit from IRAL as per the termination agreement.
- ii) In this agreement, amount to be refunded by IRAL is specially mentioned by way of cheques and amount thereof in the form of table in normal case.
- iii) All PDCs clubbed together will be added to determine the claim amount.
- iv) No interest is made payable when the termination agreement is signed unless specifically mentioned in the termination agreement.
- v) NO AR is made payable when the termination agreement is signed.