# IN THE NATIONAL COMPANY LAW TRIBUNAL
# SPECIAL BENCH, CHENNAI

**CP/1187/IB/CB2018**

*Under Section 9 r/w Rule 6 of the IBC, 2016*

**In the matter of M/s. Kiliyanur Traditions Private Limited**

**Mr. Jampala Venkatatesam Chowdhury**

**---Operational Creditor**

V/s

**M/s. Kiliyanur Traditions Private Limited**

**---Corporate Debtor**

**Order delivered on: 09.08.2019**

**Coram:**

**B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)**

**ANIL KUMAR. B, MEMBER (TECHNICAL)**

For the Operational Creditor: *Shri. A.K Mylsamy, Advocate*
*Shri. Abishek Murthy, Advocate*
*For A K Mylsamy &Associates LLP*

For the Corporate Debtor : *Shri. Vidhayshankar, Advocate*
*Shri R. Ashok Kumar, Advocate*

## ORDER

**Per: B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)**

**Heard and dictated in Open Court on: 08.08.2019**

It is a Company Petition filed u/s 9 of IBC for initiation of Corporate Insolvency Resolution Process against a struck-off

Company viz., M/s. Kiliyanur Traditions Pvt. Ltd. showing it as Corporate Debtor on the ground that it has defaulted in paying ₹28,89,598 (Principal amount ₹24,99,450 plus an amount of 3,95,148 towards interest @14%).

2. Before going into merit of this case, the point before this Bench is, since it is a Petition filed against a company already dissolved u/s 248 (5) of the Companies Act 2013, whether the petition filed u/s 9 of the Code meant for liquidation, in the event Resolution is not approved.

3. As to this point, on the exercise done by the Applicant's Counsel the Respondent's Counsel as well as this Bench, we are unable to lay our hands on any of the Provisions of either IBC, 2016, or Companies Act, 2013 to initiate either winding up, or CIRP against a Company already dissolved u/s 248 of the Companies Act, 2013 because when company itself is not in existence, question of initiation of CIRP or liquidation will not arise, as to realisation of the liability from such company, such person has to proceed against the assets of

the dissolved company as contemplated under proviso to Section 248 (6) of the Companies Act, 2013, for which, this proceeding is not recourse, therefore this Petition is hereby **dismissed** with liberty to proceed in accordance with Law.

**(ANIL KUMAR. B)**
**MEMBER (Technical)**

**(B. S.V. PRAKASH KUMAR)**
**MEMBER (Judicial)**

GHK/TJS