IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT – 2

ITEM No.301
C.P.(IB)/346(AHM)2025

Proceedings under Section 9 IBC

IN THE MATTER OF:

Immacule Lifesciences Pvt Ltd ....**Applicant**
V/s
FTF Pharma Private Limited ....**Respondent**

Order delivered on: 09/09/2026

Coram:
Mrs. Chitra Hankare, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

This case is fixed for pronouncement of order

The order is pronounced in open court vide separate sheet

sd/-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)

AP

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD (COURT - II)

COMPANY PETITION (IB) 346 (AHM) 2025

(Application under Section 9 Read with rule 6 of the Insolvency and Bankruptcy Rules, 2016)

In the matter of:

Immacule Lifesciences Private Limited
Village Thanthelwal, Ropar Road,
Nalagarh, Dist.Solan
Himachal Pradesh 174101

.....Petitioner/
Operational Creditor

Versus

FTF Pharma Private Limited
Bl.No. 193(p)211(p), Xcelon Ind. Park,
Chak De India Weigh Bridge Rd,
Vasana, Chacharwadi, Ta-s Anand,
Ahmedabad - 382213

..... Respondent/
Corporate Debtor

Order pronounced on 09.09.2026

Coram:
MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)

MR. VELAMUR G VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)

Present:

For the Petitioner : Mr. Kunal Vaishnav, Adv.
For the Respondent : Mr. Jaydeep Mehta, Adv.

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JUDGEMENT

1. This application is filed by the Operational Creditor viz, M/s Immacule Lifesciences Private Limited, under Section 9 of Insolvency and Bankruptcy Code, 2016 seeking initiation of Corporate Insolvency Resolution Process (CIRP) as against the Corporate Debtor (CD) viz. M/s. FTF Pharma Private Limited. Vide order dated 08.09.2025 discrepancies in Part-IV in form -5 with respect to the date of default was allowed to be corrected by filing revised Form-5 along with affidavit. As per the revised Form–5, the total Outstanding Debt amounts to Rs.2,18,03,319/- from the date of the respective invoices - 22.02.2023; 09.04.2024; and 09.04.2024 is the date of acceptance of debt.
2. The Petitioner submits that it is engaged in contract manufacturing of finished dosage pharmaceutical products, whereas Respondent (CD) is engaged in pharmaceutical development and formulation research. It is submitted that both the parties entered into a Technology Transfer Agreement dated 04.05.2022, under which Respondent CD was to transfer the technology employed in manufacturing of certain pharmaceutical products to enable Petitioner OC to manufacture the submission

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batches of the Products in connection with Respondent CD or its client's ANDA submission. It is further submitted that clause 6 of the agreement provided for the Petitioner to raise invoices upon FTF pharma at various milestones as per annexure IV to the said agreement and were payable by wire transfer within 45 days from the date of invoice.

3. It is submitted that Petitioner in terms of the Technology Transfer Agreement raised an invoice for the 1st milestone and the same was duly paid by the Respondent CD. The Petitioner submits that it achieved the second milestone on 10.05.2023 and, thereafter, by email dated 16.05.2023, proposed to the Respondent/CD for raising the invoice towards the said milestone. It is contended that despite several subsequent communications, the Respondent/CD neither responded nor confirmed the Petitioner's request to raise the invoice. It is submitted that the third milestone, relating to six-month stability data, was achieved in November 2023, following which the Petitioner again sought confirmation from the Respondent/CD for raising the corresponding invoice, but received no response.
4. It is submitted that on 09.04.2024, the Petitioner raised Invoice No. IMSER/24-25/0006 for Rs.98,82,500/- towards the second milestone for 3 month stability data and Invoice No. IMSER/24-

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25/0007 for Rs.98,82,500/- towards the third milestone for 6 month stability data. The Petitioner further submits that Annexure II-B to the Agreement specifically provides that any project study requiring third-party laboratory expertise shall be charged at actuals by the Petitioner. It is submitted at the instance of the Respondent CD, the Petitioner obtained third-party laboratory testing for the purpose of executing its work under the agreement and, on 10.11.2022 issued purchase order for the total amount of Rs Rs.20,38,319/- upon Teena Bio Labs Limited. Petitioner raised Invoice No. IMSER/22-23/0089 dated 22.02.2023 upon the Respondent CD for the said 3rd party lab testing charges. It is further submitted that the Petitioner raised Invoice Nos. IMSER/24-25/0006 and IMSER/24-25/0007 for Rs.98,82,500/- each towards the second and third milestones, respectively and an aggregate amount of Rs.2,18,03,319/- remains outstanding against the Respondent CD. It is contended that despite repeated demands the Respondent CD failed to make payment and, at no point, raised any dispute regarding the work executed by the Petitioner or the invoices or amounts claimed therein.

5. Petitioner issued a demand notice dated 22.10.2024 calling upon the Respondent CD to pay the outstanding amount of

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Rs.2,18,03,319/-, to which the Respondent CD submitted a reply dated 31.10.2024, followed by the Petitioner's rejoinder and the Respondent CD's sur-rejoinder dated 13.02.2025.

6. Applicant has relied upon following documents:
   a) Copies of Master data of both the Operational Creditor and Corporate Debtor.
   b) Technology Transfer Agreement dated 04.05.2022.
   c) Copy of Invoices.
   d) Statutory Notice dated 22.10.2024 issued by Operational Creditor under IBC.
   e) Reply of the Corporate Debtor dated 31.10.2024 and Rejoinder reply dated 13.02.2025 by Operational Creditor to Corporate Debtor.
   f) Various communications/emails between Operational Creditor and Corporate Debtor.

7. The Respondent CD submits that it had engaged the Petitioner/Operational Creditor under the Technology Transfer Agreement dated 04.05.2022 for the Akorn ANDA opportunity and, in good faith, paid Rs.67,00,000/- towards Milestone 1, which was duly completed. It is contended that in 2023, Akorn Pharmaceuticals entered bankruptcy proceedings in the United

States, whereupon it is submitted that the Respondent informed the Petitioner that the project was being put on hold and that any further work would depend upon securing a new commercial partner. It further submitted that Respondent explored an alternative opportunity with Hikma Pharmaceuticals however, Hikma raised concerns regarding the completeness and adequacy of the data presented by the Petitioner and did not proceed further. The Respondent further submits that the Petitioner failed to furnish complete and timely stability data and supporting documents as required under Annexure IV of the Agreement. It is contended that the three-month stability data was furnished only on 31.08.2023 and 11.09.2023, beyond the stipulated four-month period, while the six-month stability data, which was a prerequisite for Milestone 3, was never furnished. It is contended that communications dated 22.12.2023, and emails dated 17.01.2024 and 09.08.2024 recorded Respondent concerns about continuing deficiencies, delays, incomplete datasets and missing supporting documents, and further contends that at no point did the Respondent accept or confirm completion of Milestones 2 or 3. It is contended that despite the unresolved deficiencies, the Petitioner unilaterally raised invoices for the said milestones. It is further submitted that the

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Respondent issued termination notice to petitioner citing delayed and incomplete performance, and, in response to the demand notice dated 22.10.2024, specifically denied liability by its reply dated 31.10.2024, followed by its sur-rejoinder dated 13.02.2025.

8. The Respondent further submits that under Clause 6 read with Annexure IV, milestone payments were contingent upon completion and acceptance of specified deliverables. It is further contended that while Milestone 1 was completed and paid for, Milestones 2 and 3 were neither completed in accordance with the contractual requirements nor accepted by the Respondent, and no milestone sign-off or acknowledgment of liability has been produced. It further submitted that the amount of Rs.20,38,319/- claimed towards third-party laboratory testing is also disputed, as such testing, under Annexure II-B read with Paragraph 4.7 and Annexure III of the Agreement, required prior written approval of the Respondent and reimbursement only at actuals. It is submitted that no such prior written approval was obtained before the Petitioner engaged Teena Bio Labs Limited. It is submitted that the three invoices forming the alleged claim of Rs.2,18,03,319/- were never approved or accepted by the

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Respondent and are founded upon disputed contractual obligations.

9. Both the parties have filed written submissions. Heard the counsels for the petitioner as well as the respondent and perused all the documents and judgements available on record.

10. Observations & Conclusions:

a) This being a technical agreement, the limited purpose served in whether the debt was defaulted and whether there was an pre existing dispute.

b) The parties to the contract is independent based on which the petitioner has performed the obligations claiming the dues for the second and third mile stone. There appears to be some delay pointed out but apparently the pre-existing disputes are not significant to erode the legitimate claim to be made by the applicant. Filing of this application is within the period allowed under limitation.

c) There appears to be a due notice issued dated 22 Oct 2024 & 24.12.2024 by the applicant and the reply/response of respondent dated 31.10.2024 does not have any convincing pre-existing dispute. One of the main reasons stated by respondent in defence, is that another entity Akorn (with whom the respondent has a separate agreement) has filed for

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bankruptcy and the project was on hold cannot be a defence for refusing payment or stopping the performance of 2nd and 3rd milestone of the project. Another contract which is between respondent and another party (Akron Operating Company LLC, Delware, USA) does not bind the contract between the Applicant and the respondent and cannot be a cause on stated bankruptcy to or does not have any agreed clause to stop execution of this project. This is a bi parte agreement between the applicant and the CD with provisions that they are independent contractors and is not a triparte agreement or any clause to make any defence to stop the project mid stream and deny its payment. Since there was no valid dispute there is no question of proceeding before arbitration by invoking the clause. Even if the 3rd party lab testing amount of Rs.20,38,319 is contested the remaining two invoices raised are above the threshold limit. Neither delay in completion of the mile stone not any damage/cost is specified in the stated technology transfer agreement. The outstanding debt is proved which is beyond Rs 1 crore. The respondent seems to rely on the bankruptcy proceeding initiated by another party who is not privy to this contract and debt due and payable. The judgement relied upon as

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conclusion to the observations are: Mobilox Innovations Private Limited v. Kirusa Software Private Limited (2018) 1 SCC 353

11. In view of the above we pass the following

ORDER

I. CP (IB) 346 of 2025 is allowed.

II. The CIRP is ordered to be initiated against the corporate debtor – FTF Pharma Private Limited.

III. The order of moratorium under section 14 of the Code shall come to effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of section 31 or passes an order for liquidation of the corporate debtor under Section 33 of the IBC 2016, as the case may be.

IV. However, in terms of Section 14(2) to 14(3) of the Code, the supply of essential goods or services to the corporate debtor as may be specified, if continuing, shall not be terminated or suspended, or interrupted during the moratorium period.

V. We hereby appoint from the panel suggested by IBBI, Mr. Sunil Kumar Kedia, Registered IP having IBBI registration no.

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IBBI/IPA-001/IP-P00028/2016-2017/10064, Email-kedia_kedia@yahoo.com, under section 13 (1)(c) of the Code to act as Interim Resolution Professional (IRP). He shall conduct the Corporate Insolvency Process as per the Insolvency and Bankruptcy Code, 2016 r.w. Regulations made thereunder.

VI. The IRP so appointed shall make a public announcement of the initiation of Corporate Insolvency Resolution Process and call for submissions of claims under section 15, as required by Section 13(1)(b) of the Code.

VII. The IRP shall perform all his functions as contemplated, inter-alia, by sections 17, 18, 20 and 21 of the Code. It is further made clear that all personnel connected with the corporate debtor, its promoters, or any other person associated with the management of the corporate debtor are under legal obligation as per section 19 of the Code to extend every assistance and cooperation to the IRP. Where any personnel of the corporate debtor, its promoters, or any other person required to assist or co-operate with IRP, do not assist or cooperate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

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VIII. The IRP is expected to take full charge of the corporate debtor's assets, and documents without any delay whatsoever. He is also free to take police assistance in this regard, and this Court hereby directs the Police Authorities to render all assistance as may be required by the IRP in this regard.

IX. The IRP shall be under a duty to protect and preserve the value of the property of the 'corporate debtor company' and manage the operations of the corporate debtor company as a going concern as a part of obligation imposed by section 20 of the Code.

X. The IRP or the RP, as the case may be shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIRP in respect of the Corporate Debtor.

XI. We direct the Operational Creditor to pay IRP a sum of Rs.2,00,000/- (Rupees Two Lakh Only) in advance within a period of 7 days from the date of this order to meet the cost of CIRP arising out of issuing public notice and inviting claims till the CoC decides about his fees/expenses.

XII. The Registry is directed to communicate this order to the Operational Creditor, corporate debtor, and to the Interim Resolution Professional, the concerned Registrar of Companies

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and the Insolvency and Bankruptcy Board of India after completion of necessary formalities, within seven working days and upload the same on the website immediately after pronouncement of the order. The Registrar of Companies shall update its website by updating the Master Data of the Corporate Debtor in MCA portal specific mention regarding admission of this Application and shall forward the compliance report to the Registrar, NCLT.

XIII. The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of this order.

Sd/-

DR. V.G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)