IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO.89 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO.23 OF 2015

M/S. FORTRAN STEEL PRIVATE LIMITED

.... Petitioner /Demerged Company

AND

COMPANY SCHEME PETITION NO.90 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO.24 OF 2015

M/S FERRITE STRUCTURAL STEELS PRIVATE LIMITED

... Petitioner/Resulting Company

In the matter of the Companies Act,1956 (1 of 1956) and Companies Act, 2013 (18 of 2013);

AND

In the matter of Sections 391 to 394 of the Companies Act, 1956 read with Sections 100 to 103 of the Companies Act, 1956 and Sections 52 and 55 of the Companies Act, 2013;

AND

In the matter of Scheme of Arrangement between Fortran Steel Private Limited ("The Demerged Company") and Ferrite Structural Steels Private limited ("The Resulting Company")

AND

Their respective shareholders and creditors

Called for hearing

Mr. Hemant Sethi, i/b M/s Hemant Sethi & Co. Advocate for the Petitioner Company

M. Nisha Valani, i/b Mr. A.A Ansari for Regional Director in both the Petitions

CORAM: S. J. Kathawalla, J.

DATE: 24th April, 2015

PC:

1. Heard Learned Counsel for the Petitioner Company. No objector has come before the court to oppose the Scheme and nor any party has controverted any of the averments made in the Petition.

2. The sanction of this Court is sought to a Scheme of Arrangement between M/s Fortran Steel Private Limited, (the Demerged Company) and Ferrite Structural Steels Limited, (the Resulting Company) and their respective shareholders and Creditors.

3. The Learned Counsel for the Petitioner states that the Demerged Company is engaged in the business of manufacturing of bright bars, wire drawing and re-rolling and trading in iron & steel products and the Resulting Company has been incorporated to carry on the business of the Trading Division post demerger from Fortran Steel Private Limited.

4. The rational for the Scheme is that the Demerged Company is currently owned and operated by Gopal Parekh & Family, Jatin Parekh & Family, Sharad

Parekh & Family and Rasesh Parekh & Family. Pursuant to a family arrangement agreement, it has been agreed that Sharad Parekh & Family and Rasesh Parekh & Family shall have complete ownership of the Trading Division and Gopal Parekh & Family and Jatin Parekh & Family shall have complete ownership of the Remaining Business. This segregation is proposed to be achieved through the demerger of the Trading Division from the Demerged Company into the Resulting Company.

5. Learned Counsel for the Petitioner further states that the Board of Directors of the Petitioner Companies have approved the said Scheme of Arrangement by passing Board Resolutions which are annexed to the Company Scheme Petitions of the respective companies.

6. The Learned Counsel for the Petitioners further states that the Petitioner Companies have complied with all the directions passed in the respective Company Summons for Direction and that the respective Company Scheme Petitions have been filed in consonance with the orders passed in respective Company Summons for Direction.

7. The Learned Counsel appearing on behalf of the Petitioner Companies has stated that the Petitioner Companies have complied with all requirements as per directions of this Court and they have filed necessary affidavit of compliance in the Court. Moreover, the Petitioner Companies undertake to comply with all statutory requirements if any, as required under the Companies Act, 1956 /

2013 and rules made there under whichever is applicable. The said undertaking is accepted.

8. The Regional Director has filed an Affidavit on 22nd day of April, 2015 stating therein, save and except as stated in paragraph 6 thereof, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraph 6 of the said Affidavit, the Regional Director has stated that:-

> "6. *That the Deponent further submits that the tax implication, if any, arising out of the Scheme is subject to final decision of Income Tax Authorities. The approval of the Scheme by the Hon'ble Court may not deter the Income Tax Authority to scrutinize the tax returns filed by the Petitioner companies after giving effect to the Scheme. The decision of the Income Tax Authorities is binding on the Petitioner Companies."*

9. So far as the observation made in paragraph 6 of the Affidavit of the Regional Director is concerned, the Petitioner Companies through its Counsel undertake that the Petitioner Company is bound to comply with all the applicable provisions of the Income Tax Act and all tax issues arising out of the Scheme will be met and answered in accordance with law.

10. The Learned Counsel appearing for the Regional Director on instructions of Mr. M. Chandanamuthu, Joint Director (Legal) in the office of the Regional Director states that they are satisfied with the undertaking given by the Petitioner Company. The said undertaking given by Petitioner Company is accepted.

11. From the material on record, the Scheme appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy. None of the parties concerned have come forward to oppose the Scheme in the court.

12. Since all the requisite statutory compliances have been fulfilled, the Company Scheme Petition is made absolute in terms of the prayer clause (a) of the respective Petitions.

13. The Petitioner Company to file a copy of this order and scheme duly authenticated by the Company Registrar, High Court (O.S.), Bombay with the concerned Superintendent of Stamps, for the purpose of adjudication of stamp duty payable, if any, on the same within 60 days from the date of the Order.

14. Petitioner Company is directed to file a copy of this order along with a copy of the Scheme with the concerned Registrar of Companies, electronically, along with concerned E-Form INC 28 pursuant to the Companies Act, 2013 in addition to physical copy as per provisions of the Companies Act 1956 / 2013.

15. The Petitioner Companies to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai. Costs to be paid within four weeks from the date of the Order

16. Filing and issuance of the drawn up order is dispensed with.

17. All concerned regulatory authorities to act on a copy of this order along with amended Scheme and the form of minutes duly authenticated by the Company Registrar, High Court (O. S.), Bombay.

(S. J. Kathawalla, J.)