রেজিষ্টার্ড নং ডি এ-১

বাংলাদেশ গেজেট

অতিরিক্ত সংখ্যা

কর্তৃপক্ষ কর্তৃক প্রকাশিত

বৃহস্পতিবার, জানুয়ারী ১৫, ১৯৯৮

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার

অর্থ মন্ত্রণালয়

অভ্যন্তরীণ সম্পদ বিভাগ

(আয়কর)

প্রজ্ঞাপন

ঢাকা, ১৪ই জানুয়ারী ১৯৯৮ ইং/১লা মাঘ ১৪০৪ বাং

এস, আর, ও, নং-১১-আইন/৯৮–যেহেতু Income Tax Ordinance, 1984 (XXXVI of 1984 এবং The Kingdom of Belgium-প্রচলিত এতদসংক্রান্ত আইনের অধীনে দ্বৈত করারোপন পরিহার এবং আয়ের উপর কর সম্পর্কিত রাজস্ব ফাঁকি প্রতিরোধের উদ্দেশ্যে গণপ্রজাতন্ত্রী বাংলাদেশ সরকার The Kingdom of Belgium সরকারের সহিত ১৮ই অক্টোবর, ১৯৯০ ইং তারিখে একটি চুক্তি (Convention) সম্পাদন করিয়াছে, এবং

যেহেতু, উক্ত চুক্তি বাংলাদেশে কার্যকর করার উদ্দেশ্যে বিধান প্রণয়ন করা সমীচীন ও প্রয়োজনীয়;

সেহেতু, Income Tax Ordinance, 1984 (XXXVI of 1984) এর section 144 এ প্রদত্ত ক্ষমতাবলে সরকার এতদ্বারা বিধান করিল যে, এতদসংগে সংযোজিত উক্ত চুক্তির বিধানাবলী বাংলাদেশে কার্যকর হইবে।

" চুক্তি "

রাষ্ট্রপতির আদেশক্রমে

শাহ্ আব্দুল হান্নান

সচিব।

মূল্য : টাকা ৬.০০

S.R.O. No. 11/1998 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com 1 / 25

CONVENTION BETWEEN THE KINGDOM OF BELGIUM AND THE PEOPLE'S REPUBLIC OF BANGLADESH FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME.

Md Sajid Hossain Shimanto · smartaccountantbd.com

THE GOVERNMENT OF THE KINGDOM OF BELGIUM

AND

THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

DESIRING to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

HAVE AGREED AS FOLLOWS:

CHAPTER I—SCOPE OF THE CONVENTION

ARTICLE 1

PERSONAL SCOPE

This Convention shall apply to persons who are residents of one or both of the Contracting States.

ARTICLE 2

TAXES COVERED

§1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its political sub-divisions or local authorities, irrespective of the manner in which they are levied.

§2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.

§3. The existing taxes to which the Convention shall apply are in particular :

(a) in Belgium :

1° the individual income tax ;

2° the corporate income tax ;

3° the income tax on legal entities ;

4° the income tax on non-residents ;

5° the special levy assimilated to the individual income tax ; including the prepayments, the surcharges on these taxes and prepayments, and the supplements to the individual income tax (hereinafter referred to as "Belgian tax");

(b) in Bangladesh :

the income tax ;

(hereinafter referred to as "Bangladesh tax").

§4. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of significant changes which have been made in their respective taxation laws.

Md Sajid Hossain Shimanto · smartaccountantbd.com

CHAPTER II—DEFINITIONS

ARTICLE 3

GENERAL DEFINITIONS

§1. For the purposes of this Convention, unless the context otherwise requires :

(a) 1° the term "Btlgium" means the Kingdom of Belgium;

2° the term "Bangladesh" means the People's Republic of Bangladesh;

(b) the terms "a Contracting State" and "the other Contracting State" mean Belgium or Bangladesh as the context requires;

(c) the term "person" includes an individual, a company and any other body of persons;

(d) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

(e) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(f) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(g) the term "nationals" means :

1° all individuals possessing the nationality of a Contracting State;

2° all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State;

(h) the term "competent authority" means :

1° in the case of Belgium, the Director-General of direct taxes;

2° in the case of Bangladesh, the National Board of Revenue or its authorised representative.

§2. As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the contex otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

S.R.O. No. 11/1998 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com

ARTICLE 4

RESIDENT

§1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State.

§2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows :

(a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);

(b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;

(c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;

(d) if he is a national of both State or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

§3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

ARTICLE 5

PERMANENT ESTABLISHMENT

§1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

Md Sajid Hossain Shimanto smartaccountantbd.com

§2. The term "permanent establishment" includes especially :

(a) a place of management ;

(b) a brance ;

(c) an office ;

(d) a factory ;

(e) a workshop ;

(f) a warehouse in relation to a person who provides storages facilities for others ;

(g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

§3. A building site, a construction, assembly or installation, project constitutes a permanent establishment only if it lasts more than 183 days.

§4. Notwithstanding the preceding provisions of this article, the term "permanent establishment" shall be deemed not to include :

(a) the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise ;

(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose if storage or display ;

(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise ;

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise ;

(e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or similar activities which have a preparatory or auxiliary character for the enterprise ;

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e) provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

§5. Notwithstanding the provisions of paragraphs 1 and 2, where a person—other than an agent of an independent status to whom paragraph 6 applies—is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the

Md Sajid Hossain Shimanto · smartaccountantbd.com

first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person :

(a) has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph ; or

(b) has no such authority, but habitually maintains in the first mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

§6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any othr agent of an independent status, provided that such persons are acting in the ordinary course of their business.

§7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

CHAPTER III—TAXATION OF INCOME

ARTICLE 6

INCOME FROM IMMOVABLE PROPERTY

§1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

§2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment use in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

§3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

§4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

ARTICLE 7

BUSINESS PROFITS

§1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise Carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

§2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting state be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same on similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

§3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere, but this does not include any expenses which under the law of that State would not be allowed to be deducted by an enterprise of that State.

§4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

§5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of good or marchandise for the enterprise,

§6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

§7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8

SHIPPING AND AIR TRANSPORT

§1. Profits from the operation of aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

§2. Profits arising in a Contracting State and derived from the operation of ships in international traffic by an enterprise having its place of effective management in the other Contracting State may be taxed in the first mentioned State but the tax chargeable in that State shall be reduced by an amount equal to fifty percent of such tax.

§3. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

§4. The provisions of paragraphs 1 and 2 shall also apply to profits from participation in a pool, a joint business or an international operating agency.

ARTICLE 9

ASSOCIATED ENTERPRISES

Where

(a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprise, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

ARTICLE 10

DIVIDENDS

§1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

§2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

§3. The term "dividends" as used in this Article means income from shares and income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident. This term means also income—even when paid in the form of interest—which is taxable under the head of income on capital invested by the members of a company other than a company with share capital, which is a resident of Belgium.

§4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

Md Sajid Hossain Shimanto · smartaccountantbd.com

§5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consit wholly or partly of profits or income arising in such other State.

ARTICLE 11

INTEREST

§1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

§2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State the tax so charged shall not exceed 15 per cent of the gross amount of the interest.

§3. Notwithstanding the provisions of paragraph 2, interest may not be taxed in the State where it arises if it is interest on commercial debt-claims—includding debt-claims represented by commercial paper—resulting from deferred payments for goods, merchandise or services supplied by an enterprise of a Contracting State to a resident of the other Contracting State.

§4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures; however, the term "interest" shall not include for the purpose of this Article penalty charges for late payment nor interest regarded as dividends under the second sentence of paragraph 3 of Article 10.

§5. The provisions of paragraphs 1, 2, and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect

Md Sajid Hossain Shimanto · smartaccountantbd.com

of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

§6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment orfixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

§7. Where, by reason of a special relationship between the payer and the beneficial owner or between both ot them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 12

ROYALTIES

§1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

§2. However, such royalties may also be taxed in the Contrarting State in which they arise, and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount ot the royalties.

§3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, aay copyright of literary, artistic or scientific work including cinematograph films or tapes for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

S.R.O. No. 11/1998 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com

§4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

§5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a Political sub-division, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

§6. Where, by reason of a special relationship getween the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the royalties shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 13

CAPITAL GAINS

§1. Capital gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

§2. Capital gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

§3. Capital gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

§4. Capital gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the Contracting State of which the alienator is a resident.

Md Sajid Hossain Shimanto · smartaccountantbd.com

ARTICLE 14

INDEPENDENT PERSONAL SERVICES

§1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State. However, in the following circumstances such income may be taxed in the other Contracting State if :

(a) he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or

(b) he is present in the other Contracting State for a period or periods amounting to or exceeding in the aggregate 183 days in the taxable period concerned; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State.

§2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

ARTICLE 15

DEPENDENT PERSONAL SERVICES

§1. Subject to the provisions of Articles 16, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

§2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if :

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the taxable period concerned; and

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and

(c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

§3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

ARTICLE 16

DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or a similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

S.R.O. No. 11/1998 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com

ARTICLE 17

ARTISTES AND ATHLETES

§1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete. from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

§2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

ARTICLE 18

PENSIONS

§1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

§2. Pensions and other allowances, periodic or non-periodic, paid under the social security legislation of a Contracting State by that State, a political sub-division or a local authority thereof or by a legal person organized under the public law thereof, shall be taxable in that State.

ARTICLE 19

GOVERNMENT SERVICE

§1. (a) Remuneration, other than a pension, paid by a Contracting State or a political sub-division or a local authority thereof to an individual in respect of services rendered to that State or sub-division or authority shall be taxable only in that State.

S.R.O. No. 11/1998 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com

(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is resident of that State who :

(1) is a national of that State; or

(2) did not become a resident of that State solely for the purpose of rendering the services.

§2. (a) Any pension paid by, or out of funds created by, a Contracting State or a political sub-division or a local authority thereof to an individual in respect of services rendered to that State or sub-division or authority shall be taxable only in that State,

(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

§3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political sub-division or a local authority thereof.

ARTICLE 20

TEACHERS

A professor or teacher who temporarily visits a Contracting State for a period not exceeding two years for the purpose of teaching at a university, college, school or other recognized educational institution, and who is, or immediately before such visit, was, a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State in respect of remuneration for such teaching, provided that he is subject to tax on that remuneration in the other Contracting State.

S.R.O. No. 11/1998 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com

ARTICLE 21

STUDENTS, APPRENTICES AND TRAINEES

An individual who was a resident of a Contracting State immediately before a visit to the other Contracting State and who is temporarily present in that other State solely :

(a) as a student at a university, college, school or other similar recognised educational institution in that other State ;

(b) as a business apprentice or trainee ; or

(c) as a recipient of a grant, allowance or award from a scientific, educational, religious or charitable organization or under a technical assistance programme entered into by the Government of a Contracting State,

shall be exempt from tax in that other State in respect of :

(i) all remittances from abroad for the purpose of his maintenance, education, training or practice ;

(ii) remuneration for personal services performed in that other State, provided the remuneration does not exceed one hundred and twenty thousand Belgian francs or its equivalent in Bangladesh Taka for any taxable period; and

(iii) the amount of such grant, allowance or award.

The benefits under sub-pragarph (ii) above shall extend only for such period of time as may be reasonably or customarily required to complete the education, training or practice undertaken but shall in no event exceed a period of five consecutive years.

ARTICLE 22

OTHER INCOME

§1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

§2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on

Md Sajid Hossain Shimanto · smartaccountantbd.com

business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishmtnt or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

§3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing articles of this Convention and arising in the other Contracting State may also be taxed in that other State.

CHAPTER IV—METHODS OF ELIMINATION OF DOUBLE TAXATION

ARTICLE 23

§1. In Belgium, double taxation shall be avoided as follows:

(a) Where a resident to Belgium derives income not dealt with in sub-paragraphs (b) and (c) below which may be taxed in Bangladesh in accordance with the provisions of this Convention, other than those of paragraph 2 of Article 10, of paragraph 2 and 7 of Article 11 and of paragraphs 2 and 6 of Article 12, Belgium shall exempt such income from tax but may, in calculating the amount of tax on the remaining income of that resident, apply the rate of tax which would have been applicable if such income had not been exempted.

(b) Where a resident of Belgium derives items of his aggregate income for Belgium tax purposes which are dividends taxable in accordance with paragraph 2 of Article 10, and not exempt from Belgian tax according to sub-paragraph (c) below, interest taxable in accordance with paragraphs 2 or 7 of Article 11, or royalties taxable in accordance with paragraphs 2 or 6 of Article 12, the fixed proportion in respect of the foreign tax for which provision is made under Belgian law shall, under the conditions and at the rate provided for by such law, be allowed as a credit against Belgian tax relating to such income. Notwithstanding the provisions of its law, Belgium shall also allow the credit provided for in this sub-paragraph in respect of tax which may be charged in Bangladesh on dividends, interest and royalties by virtue of the Convention and the law of Bangladesh, but which is temporarily remitted or reduced under special provisions designed to promote the economic development of Bangladesh.

S.R.O. No. 11/1998 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com

(c) Where a company which is a resident of Belgium owns shares in a company with share capital which is a resident of Bangladesh and which is subject to Bangladesh tax on its profits, the dividends which are paid to it by the latter company and which may be taxed in Bangladesh in accordance with paragraph 2 of Article 10, shall be exempt from the corporate income tax in Belgium to the extent that exemption would have been accorded if the two companies had been resident of Belgium.

(d) Where, in accordance with Belgian law, losses incurred by an enterprise carried on by a resident of Belgium in a permanent establishment situated in Bangladesh have been effectively deducted from the profits of that enterprise for its taxation in Belgium, the exemption provided for in sub-paragraph (a) shall not apply in Belgium to the profits of other taxable periods attributable to that establishment to the extent that those profits have also been exempted from tax in Bangladesh by reason of compensation for the said losses.

§2. In Bangladesh, double taxation shall be avoided as follows: subject to the provisions of the law of Bangladesh regarding the allowance as a credit against Bangladesh tax of tax payable in a territory outside Bangladesh (which shall not affect the general principle thereof), tax payable under the laws of Belgium and in accordance with the Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within Belgium shall be allowed as a credit against any Bangladesh tax computed by reference to the same profits, income or chargeable gains by reference to which the Belgium tax is computed.

CHAPTER V—SPECIAL PROVISIONS

ARTICLE 24

NON-DISCRIMINATION

§1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Aricle 1, also apply to persons who are not residents of one or both of the Contracting States.

Md Sajid Hossain Shimanto smartaccountantbd.com

§2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

§3. Except where the provisions of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

§4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall, not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

§5. Nothing contained in this article shall be construed :

(a) as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents ;

(b) as preventing Belgium :

(i) from taxing the total amount of the profits attributable to a permanent establishment in Belgium of a company which is a resident of Bangladesh or of an association having its place of effective management in Bangladesh at the rate of tax provided by the Belgium law ;

(ii) from imposing the movable property prepayment on dividends derived from a holding which is effectively connected with a permanent establishment or a fixed base maintained in Belgium by a company which is a resident of Bangladesh or by an association which has its place of effective management in Bangladesh and is taxable as a body corporate in Belgium ;

(c) as affecting any provisions of tax law of Bangladesh regarding the imposition of tax on non-resident persons as such.

§6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

ARTICLE 25

MUTUAL AGREEMENT PROCEDURE

§1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

§2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached with respect to a case which has been presented in accordance with the provisions of paragraph 1 shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

§3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention.

§4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs or for the purpose of giving effect to the provisions of the Convention.

ARTICLE 26

EXCHANGE OF INFORMATION

§1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as

S.R.O. No. 11/1998 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com

information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

§2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation :

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State ;

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (order public).

ARTICLE 27

DIPLOMATIC AND CONSULAR OFFICIALS

§1. Nothing in this Convention shall affect the fiscal privileges of members of a diplomatic mission or consular post under the general rules of international law or under the provisions of special agreements.

§2. For the purposes of the Convention, an individual who is a member of a diplomatic mission, consular post or permanent mission of a Contracting State which is situated in the other Contracting State or in a third State shall be deemed to be a resident of the sending State if he is liable in the sending State to the same obligations in relation to tax on his total world income as are residents of that sending State.

§3. The Convention shall not apply to international orgonizations, to organs or officials thereof and to persons who are members of a diplomatic, consular or permanent mission of a third State, being present in a Contracting State and who are not liable in either Contracting State to the same obligations in relation to tax on their total world income as are residents thereof.

S.R.O. No. 11/1998 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com

ARTICLE 28

LIMITATION OF THE EFFECTS OF THE CONVENTION

The provisions of this Convention shall not limit the taxation in accordance with Belgian law of a company which is a resident of Belgium, in the event of the purchase of its own shares or in the event of the distribution of its assets.

CHAPTER VI—FINAL PROVISIONS

ARTICLE 29

ENTRY INTO FORCE

§1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Dhaka as soon as possible.

§2. The Convention shall enter into force on the thirtieth day after the date of the exchange of the instruments of ratification and its provisions shall have effect :

(a) in Belgium : in respect of taxes relating to any year of assessment beginning on or after January 1 in the calendar year next following that in which the instruments of ratification have been exchanged;

(b) in Bangladesh : for any year of assessment beginning on or after July 1 in the calendar year next following that in which the instruments of ratification have been exchanged.

ARTICLE 30

TERMINATION

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving to the other Contracting State, written notice of termination not later than the 30th June of any calendar year from the fifth year following that in which the instruments of ratification have been exchanged. In such event, the Convention shall case to have effect :

(a) in Belgium : in respect of taxes relating to any year of assessment beginning on or after January 1 in the calendar year next following that in which the notice of termination is given;

(b) in Bangladesh ; for any year of assessment beginning on or after July 1 in the calendar year next following that in which the notice of termination is given.

S.R.O. No. 11/1998 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Convention.

DONE in duplicate at Brussels this 18th October, 1990 in two originals in the Bangla, French, Dutch and English languages, all texts being equally authentic. In the case of divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF THE KINGDOM OF BELGIUM

Sd./
MARK EYSKENS

FOR THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH :

Sd./
ANISUL ISLAM MAHMUD

Md Sajid Hossain Shimanto | smartaccountantbd.com

মুহাম্মদ রবিউল ইসলাম, উপ-নিয়ন্ত্রক, বাংলাদেশ সরকারী মুদ্রণালয়, ঢাকা কর্তৃক মুদ্রিত
বিমান বিহারী দাস, উপ-নিয়ন্ত্রক, বাংলাদেশ ফরমস্ ও প্রকাশনী অফিস,
তেজগাঁও, ঢাকা কর্তৃক প্রকাশিত।