রেজিস্টার্ড নং ডি এ-১

বাংলাদেশ গেজেট

অতিরিক্ত সংখ্যা
কর্তৃপক্ষ কর্তৃক প্রকাশিত

মঙ্গলবার, জুলাই ৯, ২০২৪

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার
অর্থ মন্ত্রণালয়
জাতীয় রাজস্ব বোর্ড
(আয়কর)

প্রজ্ঞাপন

তারিখ: ২০ আষাঢ়, ১৪৩১ বঙ্গাব্দ/০৪ জুলাই, ২০২৪ খ্রিষ্টাব্দ

এস.আর.ও. নং ২৬৭-আইন/আয়কর/২০২৪।—যেহেতু আয়ের উপর দ্বৈত করারোপণ পরিহার এবং রাজস্ব ফাঁকি প্রতিরোধের উদ্দেশ্যে গণপ্রজাতন্ত্রী বাংলাদেশ সরকার এবং Government of the Republic of Mauritius এর মধ্যে নিম্ন তফসিলে বর্ণিত Protocol Amending the Convention between the Government of the People's Republic of Bangladesh and the Government of the Republic of Mauritius for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income-টি Republic of Mauritius এর পক্ষে ৫ ফেব্রুয়ারি, ২০২৪ এবং গণপ্রজাতন্ত্রী বাংলাদেশের পক্ষে ৯ এপ্রিল, ২০২৪ তারিখে স্বাক্ষরিত হইয়াছে; এবং

যেহেতু উক্ত প্রটোকলের Article-16 এর উদ্দেশ্যপূরণকল্পে এবং আয়কর আইন, ২০২৩ (২০২৩ সনের ১২ নং আইন), অতঃপর উক্ত আইন বলিয়া উল্লিখিত, এর ধারা ২৪৪ এর বিধান অনুসারে উক্ত প্রটোকলটির বিধানাবলি বাংলাদেশে কার্যকর করা প্রয়োজন;

সেহেতু জাতীয় রাজস্ব বোর্ড, উক্ত আইনের ধারা ২৪৪ এর উপ-ধারা (২) এ প্রদত্ত ক্ষমতাবলে, বিধান করিল যে, নিম্ন তফসিলে বর্ণিত উক্ত প্রটোকলটির বিধানাবলি ১ জুলাই, ২০২৫ তারিখ হইতে বাংলাদেশে কার্যকর হইবে, যথা:—

মূল্য : টাকা ২০.০০

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তফসিল

PROTOCOL AMENDING THE CONVENTION BETWEEN THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH AND THE GOVERNMENT OF THE REPUBLIC OF MAURITIUS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the Republic of Mauritius and the Government of the People's Republic of Bangladesh,

Desiring to amend the Convention between the Government of the Republic of Mauritius and the Government of the People's Republic of Bangladesh for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at Port Louis on 21 December 2009 (hereinafter referred to as the "Convention");

Have agreed as follows:

Article 1

The title of the Convention shall be deleted and replaced by the following:

"Convention between the Government of the Republic of Mauritius and the Government of the People's Republic of Bangladesh for the elimination of double taxation with respect to taxes on income and the prevention of tax evasion and avoidance"

Article 2

The preamble to the Convention shall be deleted and replaced by the following:

"The Government of the Republic of Mauritius and the Government of the People's Republic of Bangladesh,

Desiring to further develop their economic relationship and to enhance their co-operation in tax matters;

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Intending to conclude a Convention for the elimination of double taxation with respect to taxes on income without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Convention for the indirect benefit of residents of third States);

Have agreed as follows:"

Article 3

Article 3 (General Definitions) of the Convention shall be amended by:

(i) replacing paragraph 1(a) with the following:

"(a) the term "Bangladesh" means all the territory of the People's Republic of Bangladesh and includes the territorial sea and airspace above it, as well as any other maritime zone in which the People's Republic of Bangladesh has sovereign rights, other rights and jurisdiction, according to Bangladesh Law and in accordance with international law, including the UN Convention on the Law of the Sea of 1982."

(ii) replacing paragraph 1(h)(2) with the following:

"(2) in the case of Mauritius, the Director-General of the Mauritius Revenue Authority or his authorised representative;"

Article 4

Article 5 (Permanent Establishment) of the Convention shall be amended by replacing the full-stop at the end of paragraph 2(h) by a semi-colon and by inserting after paragraph 2(h), the following new sub-paragraphs:

"(i) premises used as sales outlet; and

(j) a farm or plantation."

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Article 5

Article 7 (Business Profit) of the Convention shall be amended by replacing paragraph 3 with the following:

"3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business 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. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices."

Article 6

Article 11 (Interest) of the Convention shall be deleted and replaced by the following:

"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, interest arising in a Contracting State may also be taxed in that State 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 10 per cent of the gross amount of the interest.

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3. 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. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

4. The provisions of paragraphs 1 and 2 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 Contracting State independent personal services from a fixed base situated therein, and the debt-claim in respect 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.

5. Interest shall be deemed to arise in a Contracting State when the payer is 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 or fixed base, then such interest 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 between the payer and the beneficial owner or between both of 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."

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Article 7

Article 12 (Royalties) of the Convention shall be deleted and replaced by the following:

"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 Contracting 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 of 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, any copyright of literary, artistic or scientific work including cinematograph films, or films or tapes used for radio or television broadcasting, any patent, trademark, 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.

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 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.

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6. Where by reason of a special relationship between 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 payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention."

Article 8

The Convention shall be amended by adding after Article 12 (Royalties) the following new Article:

"ARTICLE 12A
FEES FOR TECHNICAL SERVICES

1. Fees for technical services arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, notwithstanding the provisions of Article 14 and subject to the provisions of Articles 8, 16 and 17, fees for technical services arising in a Contracting State may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the fees is a resident of the other Contracting State, the tax so charged shall not exceed 10 percent of the gross amount of the fees.

3. The term "fees for technical services" as used in this Article means any payment in consideration for any service of a managerial, technical or consultancy nature, unless the payment is made:

   (a) to an employee of the person making the payment;

   (b) for teaching in an educational institution or for teaching by an educational institution; or

   (c) by an individual for services for the personal use of an individual.

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4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the technical fees, being a resident of a Contracting State, carries on business in the other Contracting State in which the technical fees arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the technical fees 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. For the purposes of this Article, fees for technical services shall be deemed to arise in a Contracting State if the payer is a resident of that State or if the person paying the fees, whether that person 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 obligation to pay the fees was incurred, and such fees are borne by the permanent establishment or fixed base.

6. Where, by reason of a special relationship between the payer and the beneficial owner of the fees for technical services or between both of them and some other person, the amount of the fees, having regard to the services 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 fees shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention."

Article 9

Article 13 (Capital Gains) of the Convention shall be deleted and replaced by the following:

"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.

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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 derived by an enterprise of a Contracting State that operates ships or aircraft in international traffic derives 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 that State.

4. Capital gains derived by a resident of a Contracting State from the alienation of shares or comparable interests in a company, partnership or trust, may be taxed in the other Contracting State if, at any time during the 365 days preceding the alienation, these shares or comparable interests derived more than 50 percent of their value directly or indirectly from immovable property situated in the other Contracting State.

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

Article 10

Article 14 (Independent Personal Services) of the Convention shall be amended by replacing paragraph 2 with the following:

"2. The term "professional services" includes, especially, independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, surgeons, lawyers, engineers, architects, dentists and accountants, but does not include technical services referred to in Article 12A."

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Article 11

Article 22 (Other income) of the Convention shall be amended by inserting a new paragraph 3 as follows:

"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."

Article 12

The Convention shall be amended by adding after Article 22 the following new Article:

"ARTICLE 22A
LIMITATION TO BENEFITS

Notwithstanding the other provisions of this Convention, a benefit under this Convention shall not be granted in respect of an item of income if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was the principal purpose or one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Convention.

Article 13

Article 25 (Mutual Agreement Procedure) of the Convention shall be deleted and replaced by the following:

"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 either Contracting State. 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.

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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 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. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs."

Article 14

Article 26 (Exchange of Information) of the Convention shall be deleted and replaced by the following:

"ARTICLE 26
EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the

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assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. 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. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.

3. In no case shall the provisions of paragraphs 1 and 2 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 (ordre public).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person."

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Article 15

The Convention shall be amended by adding after Article 26 (Exchange of Information) the following new Article:

"ARTICLE 26A
ASSISTANCE IN THE COLLECTION OF TAXES

1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article.

2. The term "revenue claim" as used in this Article means an amount owed in respect of taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Convention or any other instrument to which the Contracting States are parties as well as interest, administrative penalties and costs of collection or conservancy related to such amount.

3. When a revenue claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall at the request of the competent authority of that State be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other State.

4. When a revenue claim of a Contracting State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other State even if at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned State or is owed by a person who has a right to prevent its collection.

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5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Contracting State for purposes of paragraph 3 or 4 shall not, in that State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that State by reason of its nature as such. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 shall not, in that State, have any priority applicable to that revenue claim under the laws of the other Contracting State.

6. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State.

7. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned State, the relevant revenue claim ceases to be:

(a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, or

(b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection, the competent authority of the first-mentioned State shall promptly notify the competent authority of the other State of that fact and at the option of the other State, the first-mentioned State shall either suspend or withdraw its request.

8. In no case shall the provisions of this Article 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;

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(b) to carry out measures which would be contrary to public policy (*ordre public*);

(c) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice;

(d) to provide assistance in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the other Contracting State."

Article 16

ENTRY INTO FORCE

1. Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Protocol. This Protocol shall enter into force on the date of the later of these notifications.

2. The provisions of this Protocol shall thereupon have effect:

(a) in respect of taxes withheld at source, to amounts paid or credited on or after the first day of July next following the date upon which the Protocol enters into force;

(b) in respect of other taxes on income, to income in any income year beginning on or after the first day of July next following the date upon which the Protocol enters into force.

3. This Protocol shall remain in force as long as the Convention remains in force.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Protocol.

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DONE at Port Louis this **05** day of **February** of the year two thousand and twenty Four and at Dhaka this **09** day of **April** of the year two thousand and twenty Four in two originals, in the English language.

.....	.....
Abul Hassan Mahmood Ali MP *Hon'ble Minister* *Ministry of Finance*	**Dr. The Hon. Renganaden Padayachy** *Minister of Finance, Economic, Planning and Development*
FOR THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH	**FOR THE GOVERNMENT OF THE REPUBLIC OF MAURITIUS**

জাতীয় রাজস্ব বোর্ডের আদেশক্রমে

আবু হেনা মোঃ রহমাতুল মুনিম
সিনিয়র সচিব
অভ্যন্তরীণ সম্পদ বিভাগ, অর্থ মন্ত্রণালয়
ও
চেয়ারম্যান
জাতীয় রাজস্ব বোর্ড, ঢাকা।

মোঃ নজরুল ইসলাম, উপপরিচালক (উপসচিব), (অতিরিক্ত দায়িত্ব), বাংলাদেশ সরকারী মুদ্রণালয়, তেজগাঁও, ঢাকা কর্তৃক মুদ্রিত।
মোঃ নজরুল ইসলাম, উপপরিচালক (উপসচিব), বাংলাদেশ ফরম ও প্রকাশনা অফিস, তেজগাঁও,
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