রেজিস্টার্ড নং ডি এ-১

বাংলাদেশ গেজেট

অতিরিক্ত সংখ্যা

কর্তৃপক্ষ কর্তৃক প্রকাশিত

শনিবার, ডিসেম্বর ১০, ১৯৮৮

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার

অর্থ মন্ত্রণালয়

অভ্যন্তরীণ সম্পদ বিভাগ

(আয়কর)

প্রজ্ঞাপন

ঢাকা, ২৬শে অগ্রহায়ণ, ১৩৯৫/১০ই ডিসেম্বর, ১৯৮৮

নং এস, আর, ও ৩৬৫-আইন/৮৮—যেহেতু গণপ্রজাতন্ত্রী বাংলাদেশ সরকার এবং গণতান্ত্রিক সমাজতান্ত্রিক প্রজাতন্ত্রী শ্রীলংকা সরকার দ্বৈত করারোপন পরিহার এবং আয়ের উপর কর সম্পর্কিত রাজস্ব ফাঁকি প্রতিরোধের জন্য চুক্তি সম্পাদন করিয়াছেন ;

সেহেতু, এক্ষণে, Income Tax Ordinance, 1984 (XXXVI of 1984) এর Section 144 এ প্রদত্ত ক্ষমতাবলে সরকার নির্দেশ দিলেন যে, এতদসংগে সংযোজিত উক্ত চুক্তির বিধানাবলী বাংলাদেশে কার্যকর হইবে।

চুক্তি

CONVENTION BETWEEN THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH AND THE GOVERNMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

THE GOVERNMENT OF THE PEOPLE'S
REPUBLIC OF BANGLADESH

AND

THE GOVERNMENT OF THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA

মূল্যঃ টাকা ১·৫০

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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 :—

ARTICLE 1

Personal Scope

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

ARTICLE 2

Taxes Covered

(1) This Convention shall apply to taxes on income imposed on behalf of each Contracting State 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.

(3) The existing taxes to which this Convention shall apply are :—

(a) in the case of Bangladesh : the income-tax and the super tax, (hereinafter referred to as "Bangladesh tax") ;

(b) in the case of Sri Lanka : the income-tax, (hereinafter referred to as "Sri Lanka tax").

(4) This Convention shall also apply to any other taxes of a substantially similar character imposed in Bangladesh or Sri Lanka after the Convention comes into force.

ARTICLE 3

General Definitions

(1) In this Convention, unless the context otherwise requires :

(a) the term "Bangladesh" means the People's Republic of Bangladesh ;

(b) the term "Sri Lanka" means the Democratic Socialist Republic of Sri Lanka ;

(c) the terms "a Contracting State" and "the other Contracting State" mean Bangladesh or Sri Lanka as the context requires ;

(d) the term "tax" means Bangladesh tax or Sri Lanka tax as the context requires ;

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(e) the term "person" includes an individual, a company and any other entity which is treated as a taxable unit under the tax laws of the respective Contracting States;

(f) the term "company" means any company, body corporate or any other entity which is treated as a company under the tax laws of the respective Contracting States;

(g) the terms "resident of a Contracting State" and "resident of the other Contracting State" mean a person who is a resident of Bangladesh or a person who is a resident of Sri Lanka as the context requires;

(h) 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;

(i) the term "national" means all individuals possessing the nationality of the respective Contracting States and also any legal person, partnership and association deriving its status as such from the laws in force in the respective Contracting States;

(j) the term "competent authority" means in the case of Bangladesh, the National Board of Revenue or their authorised representative and in the case of Sri Lanka, the Commissioner General of Inland Revenue.

(2) As regards the application of this Convention by a Contracting State, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Convention.

ARTICLE 4

Fiscal Domicile

(1) For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the law of that State, is liable to taxation therein by reasons of his domicile, residence, place of management or any other criterion of a similar nature.

(2) Where by reasons of the provisions of paragraph (1) an individual is a resident of both Contracting States, then his case shall be determined in accordance with the following rules:

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

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(b) If the Contracting 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 Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;

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

(d) If he is a national of both Contracting States 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 inidividual 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 in which the business of the enterprise is wholly or partly carried on.

(2) The term "permanent establishment" shall include especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

(f) a warehouse;

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

(h) an agricultural or farming estate or plantation;

(i) a building site or construction or assembly project or the like which exists for more than 183 days.

(3) The term "permanent establishment" shall not be deemed to include:

(a) the use of facilities solely for the purposes 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 eterprise solely for the purpose of storage or display;

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

(d) the maintenance of a fixed place of business solely or purpose of purchasing goods or merchandise or for 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 for similar activities which have a preparatory or auxiliary character, for the enterprise.

(4) A person acting in one of the Contracting States for or on behalf of an enterprise of the other Contracting State, other than an agent of an independent status to whom paragraph (5) of this Article applies, shall be deemed to be a permanent establishment in the first-mentioned State, if :

(a) he has, and habitually exercises, in the first-mentioned State a general authority to conclude contracts for or on behalf of the enterprise, unless his activities are limited to the puruchase of goods or merchandise for the enterprise ; or

(b) he habitually maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which that person regularly delivers goods or merchandise for or on behalf of the enterprise ; or

(c) he habitually secures orders or is habitually instrumental in effecting sales in the first-mentioned State, wholly or almost wholly, for the enterprise itself, or for the enterprise or other enterprises which are controlled by it or have controlling interest in it.

(5) An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business and their activities do not fall within the scope of paragraph (4) (c) above.

(6) 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 make either company a permanent establishment of the other.

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ARTICLE 6

Income from Immovable Property

(1) Income from immovable property shall be taxable only in the Contracting State in which such property is situated.

(2) The term "immovable property" shall be defined in accordance with the law and usage (having the force of 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 used in agriculture, forestry and fishery, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments in cash or kind 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 professional 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) 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 or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment. In any case, where the correct amount of profits attributable to a permanent establishment is incapable of determination or the ascertaining thereof presents exceptional difficulties, the profits attributable to the permanent establishment may be computed on a reasonable basis.

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(3) In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenees 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) In so far as it has been custormary 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 apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.

(5) 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.

(6) 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.

(7) For the purposes of this Article the term"profits" does not include income from the operation of ships.

ARTICLE 8

Air Transport

(1) Income derived by an enterprise of a Contracting State from the operation of aircraft shall be taxable only in that Contracting State unless the aircraft is operated wholly or mainly between places within the other Contracting State.

(2) The provisions of paragraph (1) shall likewise apply in respect of income derived from participation in pools of any kind by enterprises engaged in air transport.

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 accued to one of the enterprises, 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 law of that State, but the tax so charged shall not exceed :

(a) in the case of Bangladesh, 15 per cent of the gross amount of the dividends; and

(b) in the case of Sri Lanka, 15 per cent of the gross amount of the dividends paid in respect of any shares or other rights representing capital contributed from abroad to the company paying the dividends on or after the date on which this Convention comes into force.

(3) The term "dividends" as used in this Article means income from shares, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident.

(4) The provisions of paragraph (2) shall not apply if the recipient 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 professional services from a fixed base situated therein, and the holdings by virtue of which the dividends are paid is effectively connected with such permanent establishment of fixed base. In such a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

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(5) Where a company is a resident of a Contracting State, the other Contracting 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 undistributed profits, even if the dividends paid or the undistributed profits consist 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 be taxed in the Contracting State in which it arises and according to the law of that State but the tax so charged shall not exceed :

(a) in the case of Bangladesh, 15 per cent of the gross amount of interest; and

(b) in the case of Sri Lanka, 15 per cent of the gross amount of interest paid in respect of any debt-claim, bond, debenture or other security arising from money received from abroad on or after the date on which this Convention comes into force.

(3) Notwithstanding the provisions of paragraph (2) :

(a) interest arising in Bangladesh and paid to the Government of Sri Lanka or the Central Bank of Sri Lanka shall be exempt from Bangladesh tax: and

(b) interest arising in Sri Lanka and paid to the Government of Bangladesh or the Bangladesh Bank shall be exempt from Sri Lanka tax.

The competent authorities of the Contracting States shall determine by mutual agreement any other Governmental institution to which this paragraph shall apply.

(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, as well as income assimilated to income from money lent by the the taxation law of the State in which the income arises. However, the term "intest" does not include income dealt with in Article 10.

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(5) The provisions of paragraph (2) shall not apply if the recipient 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 professional 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 a 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 that interest is borne by that permanent establishment or fixed base, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

(7) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law 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 which are derived and benificially owned by 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 law of that State, but the tax so charged shall not exceed :

(a) in the case of Bangladesh, 15 per cent of the gross amount of the royalties; and

(b) in the case of Sri Lanka, 15 per cent of the gross amount of any royalty paid in respect of any contract for new technology entered into on or after the date on which this Convention comes into force.

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(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 and 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 but does not include any payment in respect of the operation of mines, quarries or other places for extraction of natural resources.

(4) The provisions of paragraphs (1) and (2) of this Article 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 professional 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 a case, the provisions of Article 7 or Article 14, as the case may be, shalll apply.

(5) Royalties shall be deemed to arise in a Contracting State where the payer is that State itself, a political subdivision, 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 in connection with which the obligation to pay the royalties was incurred and the royalties are borne by that permanent establishment, then the royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

(6) Where, owing to a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties paid exceeds, for whatever reason, the amount which would have been paid in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State due regard being had to the other provisions of this Convention.

ARTICLE 13

Capital Gains

(1) Capital gains from the alienation of immovable property, as defined in paragraph (2) of Article 6, or from the alienation of shares in a company the assets of which consist principally of such property, may be taxed in the Contracting State in which such property is situated.

(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 professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State.

(3) Notwithstanding the provisions of paragraph (2) of this Article, capital gains derived by a resident of a Contracting State from the alienation of ships and aircraft operated in international traffic and movable property pertaining to the operation of such ships and aircraft shall be taxable only in that Contracting State.

(4) Capital gains from the alienation of any property other than those mentioned in paragraphs (1), (2) and (3) of this Article shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE 14

Independent Personal Services

Income derived by an individual who is a resident of a Contracting State from the performance of personal services in an independent capacity shall be taxable only in that State unless such services are performed in the other Contracting State; and

(a) the individual is present in that other State for a period or periods aggregating more than 90 days in the taxable year concerned; or

(b) the individual has a fixed base regularly available to him in that other State for the purpose of performing his activities, but only so much of the income as is attributable to that fixed base may be taxed in such other State.

ARTICLE 15

Dependent Personal Services

(1) Subject to the provisions of Articles 16, 18 and 19 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 shall be taxable in that other State.

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(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 year 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 of a fixed base which the employer has in the other State.

(3) Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised abroad a ship or aircraft in international traffic, shall be taxable in the Contracting State in which the place of effective management of the enterprise is situated.

ARTICLE 16

Directors' Fees

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

ARTICLE 17

Artistes and Athletes

Notwithstanding the provisions of Articles 14 and 15 income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians and by athletes, from their personal activities as such shall be taxable in the Contracting State in which these activities are exercised :

Provided that such income shall not be taxable in the said Contracting State but may be taxed in the other State if the visit of the public entertainers or athletes to that State is within the scope of a cultural or sports exchange programme agreed to by both the Contracting States.

ARTICLE 18

Pensions

Subject to the provisions of paragraph (1) 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.

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ARTICLE 19

Governmental Functions

(1) Remuneration, including pensions paid by, or out of funds created by a Contracting State or a political subdivision or a local authority thereof, to any individuals who is a citizen of that Contracting State in respect of services rendered to that State or subdivision or local authority thereof in the discharge of functions of a Governmental nature, shall be taxable only in that State.

(2) The provisions of Articles 15, 16 and 18 shall apply to remuneration in respect of an employment in connection with any business carried on by a Contracting State or a political subdivision or a local authority thereof for the purpose of profits.

ARTICLE 20

Teachers, Students and Trainees

(1) Remuneration which a professor or teacher who is, or immediately before was, a resident of a Contracting State and who visits the other Contracting State for a period not exceeding two years for the purposes of teaching at a university, college, school or other educational institution receives for such work shall not be taxed in that other State, in respect of that remuneration.

(2) An individual who was a resident of a Contracting State immediately before visiting the other Contracting State and is temporarily present in that other State solely as a student at a university, college, school or other similar educational institution in that other State or as a business or technical apprentice shall, from the date of his first arrival in that other State in connection with that visit, be exempt from tax in that other State :

(a) on all remittances from abroad for purposes of his maintenance, education or training ; and

(b) on any remuneration for personal services rendered in that other Contracting State with a view to supplementing the resources available to him for such purposes.

(3) An individual who was a resident of a Contracting State immediately before visiting the other Contracting State and is temporarily present in that other State solely for the purpose of study, research of training as a recipient of a grant, allowance or award from a scientific, edcational, religious or charitable organisation or under a technical assistance programme entered into by the Government of a Contracting State shall, from the date of his first arrival in that other State in connection with that visit, be exempt from tax in that other State :

(a) on the amount of such grant, allowance or award ; and

(b) on all remittances from abroad for the purposes of his maintenance, education or training.

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ARTICLE 21

Income not Expressly Mentioned

The laws in force in each Contracting State shall continue to govern the taxation of income in the respective Contracting States, except where express provision to the contrary has been made in this Convention.

ARTICLE 22

Elimination of Double Taxation

(1) 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 hereof), tax payable under the laws of Sri Lanka and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within Sri Lanka 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 Sri Lanka tax is computed.

(2) Subject to the provisions of the law of Sri Lanka regarding the allowance as a credit against Sri Lanka tax of tax payable in a territory outside Sri Lanka (which shall not affect the general principle hereof), tax payable under the laws of Bangladesh and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within Bangladesh shall be allowed as a credit against any Sri Lanka tax computed by reference to the same profits, income or chargeable gains by reference to which the Bangladesh tax is computed.

(3) Notwithstanding anything contained in the foregoing paragraphs (1) and (2), where any profits, income or chargeable gains are not subject to tax or are taxed at a reduced rate in one of the Contracting States by virtue of any exemption or concession allowed under the laws of that State or in accordance with this Convention and the same profits, income or chargeable gains are subject to tax in the other Contracting State, credit shall, subject to the laws of that State, be allowed in the letter mentioned State for the whole of the tax which would have been payable on the said profits, income or chargeable gains had the same profits, income or chargeable gains not been exempted from tax or had it not been taxed at a reduced rate in the first-mentioned State.

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ARTICLE 23

Non-Discrimination

(1) The 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 and under the same conditions are or may be subjected.

(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 in the same circumstances and under the same conditions.

(3) 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 Contracting 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 that first-mentioned State are or may be subjected in the same circumstances and under the same conditions.

(4) Nothing contained in paragraphs (1), (2) and (3) of this Article shall be construed as—

(a) obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions which it grants to its own residents;

(b) affecting any provisions of the tax laws of the respective Contracting States regarding the imposition of tax on non-resident persons as such; and

(c) affecting any provisions of the tax laws of the respective Contracting States regarding any tax consessions granted to persons fulfilling specified conditions.

(5) In this Article the term "taxation" means taxes which are the subject of this Convention.

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ARTICLE 24

Mutual Agreement Procedure

(1) Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may notwithstanding the remedies provided by the national laws of those States, present the case to the competent authority of the Contracting State of which he is a resident.

(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 an appropriate 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 this Convention. If an agreement is reached, it shall be implemented notwithstanding any time limits prescribed in the tax laws of the Contracting States.

(3) The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulty or doubt arising as to the interpretation or application of this Convention. They may also consult together for the elimination of double taxation in cases not provided for in this Convention.

(4) The competent authorities of the Contracting States may communicate with each other directly for the purpose of applying the provisions of this Convention.

ARTICLE 25

Exchange of Information

(1) The competent autorities of the Contracting States shall exchange such information or document as is necessary for carrying out the provisions of this Convention or for the prevention of fiscal evasion, or for the administration of domestic laws of the Contracting States concerning taxes covered by this Convention. Any information or document so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment or collection of the taxes which are the subject of this Convention or the determination of appeals or the prosecution of offences in relation thereto.

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(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 or the administrative practice of that or of the other Contracting State ;

(b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the otther Contracting State ;

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

ARTICLE 26

Diplomatic and Consular Officials

Nothing in this Convention shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements.

ARTICLE 27

Entry into Force

The Convention shall come into force on the date when the last of all such things shall have been done in Bangladesh and Sri Lanka as are necessary to give the Convention the force of law in Bangladesh and Sri Lanka respectively, and shall thereupon have effect :

(a) in Bangladesh, in respect of income assessable for any assessment year commencing on or after the first day of July in the calendar year next following that in which the exchange of instruments of ratification takes place; and

(b) in Sri Lanka, in respect of income assessable for any assessment year commencing on or after the first day of April in the calendar year next following that in which the exchange of instruments of ratification takes place.

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ARTICLE 28

Termination

This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention at any time after five years from the date on which this Convention enters into force provided that at least 6 months' prior notice of termination has been given through diplomatic channels. In such event the Convention shall cease to have effect :

(a) in Bangladesh for any year of assessment commencing on or after the first day of July in the calendar year next following that in which the notice of termination is given; and

(b) in Sri Lanka for any year of assessment commencing on or after the first day of April in the calendar year next following that in which the notice of termination is given.

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

DONE in duplicate at Colombo this 24th day of July of the year 1986 in the Sinhala, Bengali and English languages, all texts being equally authentic. In case of divergence of interpretation the English text shall prevail.

For the Government of the People's Republic of Bangladesh.
(A. S. NOOR MOHAMMAD)

For the Government of the Democratic Socialist Republic of Sri Lonka.
(HUGH MOLAGODA)

রাষ্ট্রপতির আদেশক্রমে
মোঃ মতিউর রহমান
অতিরিক্ত সচিব।

মোঃ সিদ্দিকুর রহমান, ডেপুটি কন্ট্রোলার, বাংলাদেশ সরকারী মুদ্রণালয়, ঢাকা, কর্তৃক মুদ্রিত।
খোন্দকার মাহ্‌ফুজাল করিম, ডেপুটি কন্ট্রোলার, বাংলাদেশ ফরমস্ ও প্রকাশনী অফিস, তেজগাঁও, ঢাকা কর্তৃক প্রকাশিত।

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