Registered No. DA-I.

The Bangladesh Gazette

Extraordinary

Published by Authority

WEDNESDAY, OCTOBER 3, 1984

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF FINANCE

Internal Resources Division

(*Income Tax*)

NOTIFICATION

Dhaka, the 2nd October 1984

No. S.R.O. 433-L/84.—Whereas the Government of the People's Republic of Bangladesh and the Government of the Republic of Korea have concluded a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income;

Now, therefore, in exercise of the powers conferred by section 144(1) of the Income Tax Ordinance, 1984 (XXXVI of 1984), the Government is pleased to direct that all the provisions of the said Convention annexed hereto shall be given effect to in Bangladesh.

CONVENTION BETWEEN THE PEOPLE'S REPUBLIC OF BANGLADESH AND THE REPUBLIC OF KOREA 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 Republic of Korea,

Price : Taka 1·25

Md Sajid Hossain Shimanto · smartaccountantbd.com

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 both of the Contracting States.

Article 2

TAXES COVERED

1. The taxes which are the subject of this Convention are :

(a) in the case of Korea :

(i) the income tax;

(ii) the corporation tax; and

(iii) the inhabitant tax,
(hereinafter referred to as "Korean tax");

(b) in the case of Bangladesh :

the income tax
(hereinafter referred to as "Bangladesh tax").

2. 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 State shall notify each other of any significant changes which have been made in their respective taxation laws.

Article 3

GENERAL DEFINITIONS

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

(a) the term "Korea" means the Republic of Korea;

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

(c) the terms "a Contracting State" and "the other Contracing State" mean Korea or Bangladesh, as the context requires;

(d) the term "tax" means Korean tax or Bangladesh tax, as the context requires;

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

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

(g) 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;

Md Sajid Hossain Shimanto · smartaccountantbd.com

(h) The term "nationals" means :

(a) all individuals possessing the nationality of a Contracting State;

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

(i) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(j) the term "competent authority" means, in the case of Korea, the Minister of Finance or his authorised representative; and, 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 context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

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 head or main office, 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 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 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. In case of doubts the competent authorities of the Contracting States shall settle the question by mutual agreement.

Md Sajid Hossain Shimanto · smartaccountantbd.com

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.

2. The term "permanent establishment" includes especially :

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

(f) a warehouse, in relation to a person providing storage facilities for others; and

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

3. A building site or construction, installation or assembly 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 of 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 for 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 (c), 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 preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include the use of facilities or maintenance of a stock of goods or merchandise belonging to the enterprise for the purpose of occasional delivery of such goods or merchandise.

Md Sajid Hossain Shimanto · smartaccountantbd.com

6. Notwithstanding the provisions of paragraphs 1 and 2, where a person, other than an agent of an independent status to whom paragraph 7 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 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.

7. 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 other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

8. 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.

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 used 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 or 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.

4. No profits shall be attributed to a permanent establishment by reason of the mere purchases by that permanent establishment of goods or merchandise for the enterprise.

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.

Article 8

SHIPPING AND AIR TRANSPORT

1. Profits of an enterprise of a Contracting State from the operation of aircraft in international traffic shall be taxable only in that State.

2. Profits of an enterprise of a Contracting State derived from the other Contracting State from the operation of ships in international traffic may be taxed in that other Contracting State, but the tax chargeable in that other Contracting State on such income shall be reduced by an amount equal to fifty per cent of such tax.

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

4. In respect of the operation of ships or aircraft in international traffic carried on by an enterprise of a Contracting State, that enterprise, if an enterprise of Bangladesh, shall also be exempt from the value added tax in Korea and, if an enterprise of Korea, shall also be exempt from any tax similar to the value added tax in Korea which may hereafter be imposed in Bangladesh.

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 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 laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

(a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends;

(b) 15 per cent of gross amount of the dividends in all other cases.

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, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as 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.

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 respet 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.

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 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 also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2,

(a) interest arising in a Contracting State and received by the Government of the other Contracting State including a political subdivision or a local authority thereof or the central bank of that other Contracting State shall be taxable only in that other Contracting State;

(b) interest arising in a Contracting State in respect of loans or credits made or guaranteed,

- in the case of Korea, by the Export-Import Bank of Korea;
- in the case of Bangladesh, by the Bangladesh Bank;

and paid to a resident of the other Contracting State shall be taxable only in that other State;

(c) interest paid in connection with the sale on credit of any industrial, commercial or scientific equipment, or paid in connection with the sale on credit of any merchandise by one enterprise to another enterprise shall be taxable only in the Contracting State of which the beneficiary is a resident.

4. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent according to the taxation law of the State in which the income arises.

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 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 or fixed 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 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.

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 recipient is the beneficial owner of the royalties 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, 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.

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 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 or fixed base in connection with which the obligation 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 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 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 immovable property, may be taxed in the State in which such property is situated.

2. 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. 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 of which the enterprise is a resident.

4. 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.

Article 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State.

S.R.O. No. 433/1984 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com

2. Notwithstanding the provisions of paragraph 1, remuneration derived by an individual who is a resident of a State in respect of professional services or other independent activities of a similar character performed in the other State may also be taxed in that other State if :

(a) the individual is present in that other State for a period or periods exceeding in the aggregate 120 days in the taxable year concerned, or

(b) the individual 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.

3. 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, 20 and 21 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 exercise 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 or 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 aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State, shall be taxable only in that State.

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 of a company which is a resident of the other Contracting State may be taxed in that other Contracting State.

S.R.O. No. 433/1984 · 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 artistes, 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.

3. The provisions of paragraphs 1 and 2 shall not apply to remuneration or profits, salaries, wages and similar income derived from activities performed in a Contracting State by entertainers or athletes if their visit to that State is substantially supported from the public funds of the other Contracting State, including those of any political subdivision, a local authority or statutory body thereof, nor to income derived by a non-profit making organization in respect of such activities provided no part of its income is payable to, or is otherwise available for the personal benefit of its proprietors, members or shareholders.

Article 18

PENSIONS

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.

Article 19

GOVERNMENT SERVICE

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

(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 a resident of that State who :

(i) is a national of that State; or

(ii) 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 subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision 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.

S.R.O. No. 433/1984 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com

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 subdivision or a local authority thereof.

4. The provisions of paragraphs 1 and 2 of this Article shall likewise apply in respect of remuneration or pensions paid, in the case of Korea, by the Bank of Korea, the Export-Import Bank of Korea, the Korea Exchange Bank, the Korea Trade Promotion Corporation and other government-owned institutions and, in the case of Bangladesh, the Bangladesh Bank and other government-owned institutions.

Article 20

STUDENTS AND APPRENTICES

1. An individual who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely as a student at a recognised university, college, school or other similar recognised educational institution in the first-mentioned State or as a business or technical apprentice therein, for a period not exceeding five years from the date of his first arrival in the first-mentioned State in connection with that visit, shall be exempt from tax in that first-mentioned State on—

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

(b) any remuneration for personal services rendered in the first-mentioned State with a view to supplementing the resources available to him for such purposes.

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 for the purpose of study, research or training as a recipient of a grant, allowance or award from a scientific, educational, 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.

Article 21

TEACHERS

An individual who is or was a resident of a Contracting State immediately before making a visit to the other Contracting State, and who, at the invitation of any university, college, school or other similar educational institution, which is recognised by the competent authority in that other Contracting State visits that other Contracting State for a period not exceeding two years solely for the purpose of teaching or research or both at such educational institution shall be exempt from tax in that other Contracting State on his remuneration for such teaching or research.

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. Notwithstanding paragraph 1, 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 be taxed in that other State.

Article 23

METHODS FOR ELIMINATION OF DOUBLE TAXATION

1. In the case of a resident of Korea, double taxation shall be avoided as follows:

Subject to the provisions of Korean tax law regarding the allowance as a credit against Korean tax of tax payable in any country other than Korea (which shall not affect the general principle hereof) the Bangladesh tax payable (excluding in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) under the laws of Bangladesh and in accordance with this Convention, whether directly or by deduction, in respect of income from sources with n Bangladesh which has been subjected to tax both in Bangladesh and Korea shall be allowed as a credit against Korean tax payable in respect of that income. The credit shall not, however, exceed that proportion of Korean tax which the income from sources within Bangladesh bears to the entire income subject to Korean tax.

2. For the purposes of paragraph 1, the term "Bangladesh tax payable" shall be deemed to include the amount of Bangladesh tax which would have been payable in accordance with Bangladesh tax laws but for the exemption or reduction of Bangladesh tax in accordance with the Bangladesh laws relating to incentives for the promotion of economic development in Bangladesh which were in force on the date of signature of this Convention or any other provisions which may subsequently be introduced in Bangladesh in modification of, or in addition to, those laws so far as they are agreed by the competent authorities of the Contracting State to be of a substantially similar character:

Provided that the amount of the tax referred to in this paragraph shall not, however, exceed:

(a) in the case of dividends an amount equal to 10 per cent of the gross amount of such dividends in the case of dividends referred to in paragraph 2(a) of Article 10 and 15 per cent of the gross amount of dividends in the case of dividends referred to in paragraph 2(b) of Article 10;

(b) in the case of interest an amount equal to 10 per cent of the gross amount of such interest; and

(c) in the case of royalties an amount equal to 10 per cent of the gross amount of such royalties.

3. In the case of a resident of 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 any country other than Bangladesh (which shall not affect the general principle thereof), the Korean tax payable (excluding in the case of a dividends, tax payable in respect of the profits out of which the dividend is paid) under the law of Korea and in accordance with this Convention, whether directly or by deduction, by a resident of Bangladesh in respect of income from sources within Korea which has been subjected to tax both in Korea and Bangladesh shall be allowed as a credit against Bangladesh in tax payable in respect of such income, but in an amount not exceeding that proportion of Bangladesh tax which such income bears to the entire income chargeable to Bangladesh tax.

4. For the purposes of paragraph 3, the term "Korean tax payable" shall be deemed to include the amount of Korean tax which would have been payable in accordance with Korean tax laws but for the exemption or reduction of Korean tax in accordance with the Korean laws relating to incentives for the promotion of economic development in Korea which were in force on the date of signature of this Convention or any other provisions which may subsequently be introduced in Korea in modification of, or in addition to, those laws so far as they are agreed by the competent authorities of the Contracting State to be of a substantially similar character:

Provided that the amount of the tax referred to in this paragraph shall not, however, exceed:

(a) in the case of dividends an amount equal to 10 per cent of the gross amount of such dividends in the case of dividends referred to in paragraph 2(a) of Article 10 and 15 per cent of the gross amount of dividends in the case of dividends referred to in paragraph 2(b) of Article 10;

(b) in the case of interest an amount equal to 10 per cent of the gross amount of such interest; and

(c) in the case of royalties an amount equal to 10 per cent of the gross amount of such royalties.

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 Article 1, also apply to persons who are not residents of one or both of the Contracting States.

S.R.O. No. 433/1984 · unofficial copy for study · 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. This provisions shall not be construed 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.

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. The provision of this paragraph shall not affect the application of the law of Bangladesh requiring the deduction of tax at source from interest, royalties and other disbursements as a condition for deduction.

4. Eterpprises 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. 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 State 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 shall be implemented notwithstanding any time limit 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 for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

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 in so far 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 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.

Article 27

DIPLOMATIC AGENTS AND CONSULAR OFFICERS

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

Article 28

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 exchange of the instruments of ratification.

3. This Convention shall have effect:

(a) in Korea:

(i) in respect of tax withheld at the source on amounts paid or credited to non-residents on or after the first day of January of the yeaer of the signature; and

(ii) in respect of other taxes for taxation years beginning on or after the first day of January of the year of the signature;

(b) in Bangladesh:

for any year of assessment beginning on or after the first day of July of the year of the signature.

Article 29

TERMINATION

This Convention shall remain in force indefinitely but either of the Contracting States may, on or before the thirtieth day of June in any calendar year from the fifth year following that in which the instruments of ratification have been exchanged, give to the other Contracting State, through diplomatic channels, written notice of termination and, in such event, this Convention shall cease to have effect:

(a) in Korea:

(i) in respect of tax withheld at the source on amounts paid or credited to non-residents on or after the first day of January in the calendar year next following that in which the notice is given; and

(ii) in respect of other taxes for taxation years beginning on or after the first day of January in the calendar year next following that in which the notice is given.

(b) in Bangladesh:

for any year of assessment beginning on or after the first day of July in the calendar year next following that in which the notice is given.

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

Done in duplicate in Seoul this tenth day of May of the year one thousand nine hundred and eighty three in the English language.

AMINUR RAHMAN SHAMS-UD DOHA
For the Govenment of the People's Republic of Bangladesh.

BUM SUK LEE
For the Government of the Republic of Korea.

Md Sajid Hossain Shimanto smartaccountantbd.com

PROTOCOL

At the time of signing the Convention between the Government of the People's Republic of Bangladesh and the Government of the Republic of Korea for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, the undersigned have agreed that the following provisions shall form an integral part of the Convention :

1. In respect of sub-paragraph (a) of paragraph 1 of Article 2 of the Convention it is understood that the Convention shall apply to the Korean defence tax where charged by reference to the income tax or the corporation tax.

2. In respect of paragraph 2 of Article 23, it is understood that the current fiscal incentives for economic development granted by Bangladesh are exemption of interest payable on foreign loans as provided by the Government of Bangladesh notification No. S.R.O. 417A-L/76, dated the 29th November, 1976 as amended.

IN WITNESS WHEREOF the undersigned, duly authorised thereto by their respective Governments, have signed this Protocol which shall have the same force and validity as if it were inserted word by word in the Convention.

Done in duplicate in Seoul this tenth day of May of the year one thousand nine hundred and eighty three in the English language.

AMINUR RAHMAN SHAMS-UD DOHA
For the Government of the People's Republic of Bangladesh.

BUM SUK LEE
For the Government of the Republic of Korea.

By order of the President
M. MATIUR RAHMAN
Joint Secretary.

Printed by Khandker Obaidul Muqtader, Deputy Controller, Bangladesh Government Press, Dhaka.

Published by Md. Abdul Matin Sirker, Deputy Controller, Bangladesh Forms and Publications Office, Tejgaon, Dhaka.

S.R.O. No. 433/1984 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com