রেজিষ্টার্ড নং ডি এ-১

বাংলাদেশ গেজেট

অতিরিক্ত সংখ্যা

কর্তৃপক্ষ কর্তৃক প্রকাশিত

শনিবার, মার্চ ১৫, ১৯৯৭

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গণপ্রজাতন্ত্রী বাংলাদেশ সরকার

অর্থ মন্ত্রণালয়

অভ্যন্তরীণ সম্পদ বিভাগ

(আয়কর)

প্রজ্ঞাপন

তারিখ, ২৮শে ফাল্গুন, ১৪০৩/১২ই মার্চ, ১৯৯৭

এস, আর, ও নং ৬৩-আইন/৯৭।— যেহেতু Income Tax Ordinance, 1984 (XXXVI of 1984) এবং Republic of Italy তে প্রচলিত এতদ্‌সংক্রান্ত আইনের অধীন দ্বৈত করারোপণ পরিহার এবং আয়ের উপর কর সম্পর্কিত রাজস্ব ফাঁকি প্রতিরোধের উদ্দেশ্যে গণপ্রজাতন্ত্রী বাংলাদেশ সরকার Republic of Italy সরকারের সহিত ২০শে মার্চ, ১৯৯০ইং তারিখে একটি চুক্তি (Convention) সম্পাদন করিয়াছে ; এবং

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

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

রাষ্ট্রপতির আদেশক্রমে

শাহ্ আবদুল হান্নান

সচিব।

মূল্য ঃ টাকা ৬.০০

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CONVENTION

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

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The Government of the People's Republic of Bangladesh and the Government of the Republic of Italy.

Desiring to conclude a Convention to avoid double taxation with respect to taxes on income and to prevent fiscal evasion ;

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

2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises.

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

(*a*) in the case of Bangladesh, the income tax ;
(hereinafter referred to as "Bangladesh tax")

(*b*) in the case of Italy :

(*i*) the personal income tax (imposta sul reddito delle persone fisiche) ;

(*ii*) the corporate income tax (imposta sul reddito delle persone giuridiche) ;

whether or not they are collected by withholding at source (hereinafter referred to as "Italian tax").

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

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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 "Italy" means the Republic of Italy ;

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

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

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

(f) 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 ;

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

(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 "competent authority" means :

(1) in the case of Bangladesh, the National Board of Revenue, or its authorised representative ;

(2) in the case of Italy, the Ministry of Finance.

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

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Article 4

RESIDENT

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 tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State.

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

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

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

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

(d) if he is a national of both 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.

4. 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.

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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, in relation to a person providing storage facilities for others;

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

(h) a building site or construction or assembly project 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 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 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 an auxiliary character, for the enterprise.

4. A person acting in a Contracting State 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 but only if :

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

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(b) he habitually maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders or makes deliveries on behalf of the enterprise, or

(c) he habitually secures orders for the sale of goods or merchandise in the first-mentioned State, wholly or almost wholly on behalf of the enterprise itself, or on behalf of the enterprise and other enterprises controlled by it or which have a 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 person is acting in the ordinary course of his business and his activities are not as described in sub-paragraph (c) of paragraph 4 of this Article.

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 be defined in accordance with 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 shall also be considered as "immovable property". 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.

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

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

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

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

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Article 8

SHIPPING AND AIR TRANSPORT

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

2. Profits from the operation of ships in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated. However, such profits may also be taxed in the other Contracting State, but the tax so charged shall be reduced by an amount equal to fifty per cent of such tax.

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

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

Article 9

ASSOCIATED ENTERPRISES

Where

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

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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 which holds directly or indirectly at least 10 per cent of the capital of the company paying the dividends;

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

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

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, "jouissance" shares or "jouissance" rights, 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 taxation law 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 respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such a case the dividends are taxable in that other Contracting State according to its own law.

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.

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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:

(*a*) 10 per cent of the gross amount of the interest, if the interest is derived by a bank or any other financial institution (including an insurance company);

(*b*) 15 per cent of the gross amount of the interest, in all other cases.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be exempt from tax in that State if:

(*a*) the payer of the interest is the Government of that Contracting State or a local authority thereof, or

(*b*) the interest is paid to the Government of the other Contracting State or local authority thereof or any agency or instrumentality (including a financial institution) wholly owned by that other Contracting State or local authority thereof.

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 by the taxation law of the State in which the income arises.

5. The provisions of paragraphs from 1 to 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 a case, the interest is taxable in that other Contracting State according to its own law.

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6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political or administrative 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 Contracting 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 law of each Contracting State, due regard being had to the other provisions of this Convention.

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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 law 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.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitatoin.

3. The term "royalties" as used in this Article means payments of ânv 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 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 whcih the royalties are paid is effectively connected with such permanent establishment or fixed base. In such a case, the royalties are taxable in that other Contracting State according to its own law.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political or administrative 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 that permanent establishment or fixed base, then such royalties shall be deemed to arise in the Contracting 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 paid, having regard to use, right of 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 that case, the excess part ot 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 13

CAPITAL GAINS

1. Gains from the alienation of immovable property, as defined in 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. Gains from the alienation of movable property forming part of the business property of 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 together with the enterprise) or of such a fixed base, may be taxed in the other State.

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

4. Gains from the alienation of any property other than those mentioned 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, unless:

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

(*b*) his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 120 days in the fiscal year.

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

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Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Ariticles 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 may be taxed in that other State.

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

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

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

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

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

Article 16

DIRECTORS' FEES

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

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Article 17

ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in the 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 of this Article shall not apply to services of entertainers and athletes if their visit is within the scope of cultural or sport exchange programme agreed to by the Governments of both the Contracting States.

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.

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Article 19

GOVERNMENT SERVICE

1. *(a)* Remuneration, other than a pension, paid by a Contracting State or an administrative or political subdivision or a local authority thereof to any 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 an adiministrative or political subdivision or a local authority thereof to any 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 national and a resident of that State.

3. The provisions of Articles 15, 16 and 18 shall apply to remuneration or pensions in respect of services rendered in connection with any trade or business carried on by one of the Contracting States or an administrative or political subdivision or a local authority thereof.

Article 20

PROFESSORS AND TEACHERS

A professor or teacher who makes a temporary visit to a Contracting State for a period not exceeding two years for the purpose of teaching or conducting research at a university, college, school or other educational institution, and who is, or immediately before such visit was, a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State in respect of remuneration for such teaching or research.

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Article 21

STUDENTS AND TRAINEES

1. 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.

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 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 the provisions of 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.

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Article 23

METHODS FOR ELIMINATION OF DOUBLE TAXATION

1. It is agreed that double taxation shall be avoided in accordance with the provisions of the following paragraphs.

2. 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 Bbangladesh (which shall not affect the general principle hereof), tax payable under the laws of Italy and in accordance with this Convention. Whether directly or by reduction, on profits, income or chargeable gains from sources within Italy shall be allowed as a credit against any Bangladesh tax computed be reference to the same profits, income or chargeable gains by reference to which the Italian tax is computed.

3. If a resident of Italy owns items of income which are taxable in Bangladesh, Italy, in determining its income taxes specified in Article 2 of this Convention, may include in the basis on which such taxes are imposed the said items of income, unless specific provisions of this Convention otherwise provide. In that case, Italy shall deduct from the taxes so calculated the income tax paid in Bangladesh, but in an amount not exceeding that proportion of the aforesaid Ialian tax which such items of income bear to the entire income. On the contrary, no deduction will be granted if the item of income is subjected in Italy to a final withholding tax by request of the recipient of the said income, in accordance with the Italian laws.

4. For the purposes of paragraphs 2 and 3 of this Article, were tax on business profits, dividends and interest arising in a Contracting State is exempted or reduced to promote the economic development of that State, such tax which has been exempted or reduced shall be deemed to have been paid at an amount not exceeding 25 per cent.

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 the 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.

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 the other State carrying on the same activities.

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 State to any taxation or any requirement connected there with 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.

4. Nothing contained in paragraphs 1, 2 and 3 of this Arrticle 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; and

(*b*) affecting any povisions of the tax laws of the recpective contracting States regarding the imposition of tax on non-resident persons as such.

5. The provisions of this Article shall, notwithstanduing the provisions of Article 2, apply to taxes of every kinds and description.

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Article 25

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contacting States result or will result for him in taxation not in accordance with this Convention, he may, irrespective of the remedies povided by the domestic laws 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 paragrraph 1 of Arrticle 24, to that of the Contracting State of which he is a national. The case must be presented within two 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 not in accordance with the Convention.

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

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

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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 concenning taxes covered by this Convention insofar as the taxation thereunder is not contrary to the Convention, as well as to prevent fiscal evasion. The exchange of information is not resticted by Aticle 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 (order.public).

Article 27

DIPLOMATIC AGENTS AND CONSULAR OFFICIALS

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

Article 28

REFUNDS

1. Taxes withheld at the source in a Contracting State will be refunded by request of the tax payer if the right to collect the said taxes is affected by the provisions of this Convention.

2. Claims for refund shall be produced within the time limit fixed by the law of the Contracting State which is obliged to carry out the refund and shall be accompanied by an official certificate of the Contracting State of which the tax payer is a resident certifying the existence of the conditions required for being entitled to the application of the allwoances provided for by this Convention.

3. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this Article, in accordance with the provisions of Article 25 of this Convention.

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Article 29

ENTRY INTO FORCE

1. The 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 date of the exchange of the instruments of ratification and its provisions shall have effect:

(*a*) in Bangladesh, in respect of income assessable for any assessment year commencing on or after the first day of july, 1980; and

(*b*) in Italy :

(*i*) in respect of taxes withheld at source, to income arising on or after lst January 1980;

(*ii*) in respect of other taxes on income, to taxes chargeable for any taxable period beginning on or after 1st January, 1980.

3. Claims for refund or credits arising in accordance with this Convention in respect of any tax payable by residents of either of the Contracting States referring to the periods beginning on or after the lst Jannuary, 1980 and until the entry into force of this Convention shall be lodged within two years from the date of entry into force of this Convention or from the date the tax was charged, whichever is later.

Article 30

TERMINATION

This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the period of five years from the date on which the Convention enters into forec. 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 Italy :

(*i*) in respect of taxes withheld at source, to income arising on or after lst Jannuary in the calendar year next following that in which the notice is given;

(*ii*) in respect of other taxes on income, to taxes chargeable for any taxable period beginning on or after lst January in the calendar year next following that in which the notice is given.

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In witness whereof the undersigned, duly authorised thereto, have signed the present Convention.

DONE in duplicate at Rome this 20th day of March 1990, in the English, Bengali and Italian languages, all the texts being equally authentic, except in case of doubt, when the English text shall prevail.

Md Sajid Hossain Shimanto smartaccountantbd.com

For the Government of
the People's Republic of
Bangladesh.

Sd/Mr. Anisul Islam Mahmud
Minister,
Ministry of Foreign Affairs,
Bangladesh.

For the Government of
the Republic of Italy.

Sd/Mr. Le Noci
Deputy Foreign Minister,
Italy.

PROTOCOL

At the signing of the Convention concluded today between the People's Republic of Bangladesh and the Republic of Italy for the avoidance of double taxation with respect to taxes on income and the prevention of fiscal evasion, the undersigned have agreed upon the following additional provisions which shall form an integral part of the said Convention.

It is understood:

(*a*) that with reference to Article 7, paragraph 3, the expression "expeneses which are incurred for the purposes of the permanent establishment" means the expenses directly connected with the activity of the permanent establishment ;

(*b*) that, with reference to Article 8, paragraph 1, an enterprise of a Contracting State deriving profits from the operation of aircraft in international traffic shall not be subject to any local income tax imposed in the other Contracting State;

(*c*) that, with further reference to Article 8, paragraph 2, the provision contained therein will continue to be effective as long as the provision contained in Section 44C of Bangladesh Income Tax Act, 1922 continues to remain in force;

(*d*) that, with reference to paragrah 1 of Article 13, a company whose investments in immovable prooperty are equal to or more than 75 per cent of its capital employed shall be deemed to be a company whose assets consist principally of immovable property;

(*e*) that, with reference to paragraph 1 of Article 25, the expression "irrespective of the remedies provided by the domestic laws'' shall not be understood to mean that the time limits prescribed by domestic laws shall not be on served; a claim under Article 25 shall not be entertained where the tax payer has not taken the appropriate action under the domestic laws to prevent such time limits from expiring ;

(*f*) the provision of paragraph 3 of Article 28 shall not prevent the competent authorities of the Contracting States from the carrying out by mutual agreement, of other practices for the allowance of the reduction for taxation purposes provided for in this Convention ;

(*g*) the remunerations paid to an individual in respect of services rendered to the Italian State Railways (FF.SS.), the Italian State Post undertaking (PP.TT.), the Italian Foreign Trade Institution (I.C.E.) and the Italian Tourism body (E.N.I.T.), as well as to the corresponding public bodies of Bangladesh, are covered by the provisions concerning governmental functions and, consequently by paragraphs 1 and 2 of Article 19 of the Convention.

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In witness whereof the undersigned, duly authorised thereto, have signed the present Protocol.

DONE in duplicate at Rome this 20th day of March 1990, in the English, Bengali and Italian languages, all the texts being equally authentic, except in case of doubt, when the English text shall prevail.

For the Government of
the People's Republic of
Bangladesh.

Sd/Mr. Anisul Islam Mahmud
Minister,
Ministry of Foreign Affairs,
Bangladesh.

For the Government of
the Republic of Italy.

Sd/Mr. Le Noci
Deputy Foreign Minister,
Italy.

মুহাম্মদ রবিউল ইসলাম, উপ-নিয়ন্ত্রক, বাংলাদেশ সরকারী মুদ্রণালয়, ঢাকা কর্তৃক মুদ্রিত
মোঃ আতোয়ার রহমান, উপ-নিয়ন্ত্রক, বাংলাদেশ ফরমস্ ও প্রকাশনী অফিস,
তেজগাঁও, ঢাকা কর্তৃক প্রকাশিত।

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