



INDIA-BANGLADESH

DOUBLE TAXATION AVOIDANCE AGREEMENT

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PREFACE

Double Tax Avoidance Agreement ("DTAA") is a tax treaty signed between two or more countries to help taxpayers avoid paying double taxes on the same income. A DTAA becomes applicable in cases where an individual is a resident of one nation, but earns income in another. DTAA's can either be comprehensive encapsulating all income sources or limited to certain areas. India presently has DTAA with 120+ countries.

The government of India has entered into a DTAA with the government of the People's Republic of Bangladesh for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income which came into effect from 27 May, 1992. The DTAA was thereafter amended by a protocol dated 4 July, 2013. India and Bangladesh are both members of the SAARC (South Asian Association for Regional Cooperation) and the SAARC member states signed a multilateral agreement on 13 November, 2005 for the avoidance of double taxation and mutual administrative assistance in tax matters.

The DTAA consists of various other clauses like the mutual agreement procedure and credit system method to be followed for avoidance of double taxation. With the protocol, provisions for exchange of information foreseeably relevant for taxation and assistance in its collection had been added in order to inculcate provisions related to base erosion and profit shifting ("BEPS") in the DTAA. The DTAA further lays down that the countries shall also prepare a yearly report on changes made in its tax laws.



The DTAA is applicable to income tax in Bangladesh and on income tax and its related surtaxes in India. A withholding tax rate as discussed below has been agreed to in the DTAA-

- Dividend- a) 10% (if at least 10% of the capital of the company paying the dividend is held by the recipient company); and b) 15% in all other cases;
- Interest- 10% (government institutions are exempted);
- Royalty- 10%.

INDIA- BANGLADESH DTAA

(COMPREHENSIVE AGREEMENT)

India and Bangladesh signed a comprehensive DTAA. Further, both India and Bangladesh are members of SAARC and therefore have entered into a multilateral agreement. The original text of the comprehensive agreement as signed between India and Bangladesh can be referred to below:

BANGLADESH

AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION AND PREVENTION OF FISCAL EVASION WITH BANGLADESH

Whereas the annexed Convention between the Government of the Republic of India and the Government of the People's Republic of Bangladesh for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on income has come into force on the 27th May, 1992 after the exchange of Instruments of Ratification as required by paragraph 1 of Article 31 of the said Convention;

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby directs that all the provisions of the said Convention shall be given effect to in the Union of India.

Notification :No. GSR 758(E), dated 8-9-1992 As amended by Notification No. 50/2013 [F.No. 500/27/2007-FTD-II], Dated 4-7-2013.

ANNEXURE

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

The Government of the Republic of India and the Government of the People's Republic of Bangladesh desiring to conclude a Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on income.

Have agreed as follows :

CHAPTER I

SCOPE OF THE CONVENTION

ARTICLE 1

PERSONAL SCOPE

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

ARTICLE 2

TAXES COVERED

1. The existing taxes to which this convention shall apply are—

(a) in the case of Bangladesh :

the income-tax

(hereinafter referred to as "Bangladesh tax");

(b) in the case of India :

(i) the income-tax including any surcharge thereon,

(ii) the surtax,

(hereinafter referred to as "Indian tax").

(2) This Convention shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of the present Convention in addition to, or in place of, the taxes referred to in paragraph (1). The competent authorities of the Contracting States shall notify each other of any substantive changes which are made in their respective taxation laws.

CHAPTER II

DEFINITIONS

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 "India" means the Republic of India;

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

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

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

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

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

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

(i) the term "nationals" means all individuals possessing the nationality of the respective Contracting States and also all legal persons, partnerships and associations deriving their status as such from the law in force in the respective Contracting States ;

(j) the term "competent authority" means in the case of Bangladesh, the National Board of Revenue or their authorised representative and in the case of India, the Central Government in the Ministry of Finance (Department of Revenue) or their authorised representative;

(k) 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.

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

ARTICLE 4

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 taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

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

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

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

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

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

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

ARTICLE 5

PERMANENT ESTABLISHMENT

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

2. The term "permanent establishment" shall include especially :

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

(f) a warehouse;

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

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

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

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

(b) the maintenance of a stock of goods or merchandise belonging to the 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 auxiliary character for the enterprise.

4. Notwithstanding the provisions of paragraphs (1) & (2), where a person - other than an agent of an independent status, to whom paragraph (5) 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 State, if—

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

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

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

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

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

7. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on a business which consists of providing the services of public entertainers (such as stage, motion picture, radio or television artists and musicians) or athletes in that other Contracting State unless such services are provided within the scope of a cultural or sports exchange programme agreed to by both the Contracting States.

CHAPTER III

TAXATION OF INCOME

ARTICLE 6

INCOME FROM IMMOVABLE PROPERTY

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

2. The term "immovable property" shall be defined in accordance with the law and usage (having the force of law) of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture, forestry and fishery, lights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments in cash or kind as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships 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, then so much of the profits of the enterprise as is attributable to that permanent establishment shall be taxable only in that other Contracting State.
2. Where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment. In any case, where the correct amount of profits attributable to a permanent establishment is incapable of determination or the ascertainment thereof presents exceptional difficulties, the profits attributable to the permanent establishment may be computed on a reasonable basis.
3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purpose of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere, but this does not include any expenses which, under the law of that State, would not be allowed to be deducted by an enterprise of that State.
4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph (2) shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down 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 purpose of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8

AIR TRANSPORT

1. Profits derived by an enterprise of a Contracting State from the operation of aircraft in international traffic shall be taxable only in that Contracting State.
2. The provisions of paragraph (1) shall likewise apply in respect of income derived from participation in pools of any kind by enterprises engaged in air transport.

ARTICLE 9

SHIPPING

1. 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.
2. The provisions of paragraph (1) shall also apply to profits derived from the participation in a pool, a joint business or an

international operating agency.

ARTICLE 10

ASSOCIATED ENTERPRISES

1. 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 11

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 Contracting 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 Contracting 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 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.

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, founder's 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 respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15, 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 Contracting State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other Contracting 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 Contracting 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 or profits or income arising in such other Contracting State.

ARTICLE 12

INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting 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 India and paid to the Government of Bangladesh or to the Bangladesh Bank shall be exempt from Indian tax;
 - (b) interest arising in Bangladesh and paid to the Government of India or to the Reserve Bank of India shall be exempt from Bangladesh tax.The competent authorities of the Contracting States may determine by mutual agreement any other institution to which this paragraph shall apply.
4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from Government securities and income from bonds or debentures, including premium and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
5. The provisions of paragraphs (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 Contracting State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15, as the case may be, shall apply.
6. Interest shall be deemed to arise in Contracting State when the payer is that Contracting 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 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 payment shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 13

ROYALTIES

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

2. However, such royalties may also be taxed in the Contracting State in which they arise, and according to the laws of that Contracting 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, or films or tapes used 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 payments in respect of the operation of mineral deposits, sources and other 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 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 15, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a political subdivision, a local authority or a resident of that Contracting State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base then such royalties shall be deemed to arise in the 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 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 14

CAPITAL GAINS

1. Subject to the provisions of paragraph (3), capital gains arising from the sale, exchange or transfer of a capital asset as defined under the respective tax laws of the Contracting States shall be taxable only in the Contracting State in which the capital asset is situated at the time of such sale, exchange or transfer.

2. For the purpose of this Article, the situs of the shares of a company shall be deemed to be in the Contracting State in which the company is incorporated.

3. Capital gains derived from the sale, exchange or transfer of a capital asset being a ship or aircraft operated in international traffic by an enterprise of a Contracting State shall be taxable only in that Contracting State.

ARTICLE 15

INDEPENDENT PERSONAL SERVICES

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

Contracting State, if—

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

(b) he is present in the other Contracting State for a period or periods exceeding in the aggregate 120 days in the previous year or income year concerned of that Contracting State.

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

ARTICLE 16

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 17, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that Contracting State unless the employment is exercised in the other Contracting State. If the employment is so exercised such remuneration as is derived therefrom shall be taxable only in that other Contracting State.

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

(a) he is present in that other Contracting State for a period or periods not exceeding in the aggregate 183 days during the 'previous year' or 'income year' concerned or he is present in that other Contracting State for any period which forms part of a continuous period exceeding 183 days throughout which he is present in that other Contracting State, and

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

(c) the remuneration is not deducted from the profits of a permanent establishment chargeable to tax in that other Contracting State.

3. Notwithstanding the provisions of paragraphs (1) and (2) of this Article, remuneration for personal services performed aboard a ship or aircraft operated by an enterprise of a Contracting State, in international traffic shall be taxable only in that Contracting State.

ARTICLE 17

DIRECTOR'S FEES

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

ARTICLE 18

ENTERTAINERS AND ATHLETES

1. Notwithstanding the provisions of Articles 15 and 16, income derived by a resident of a Contracting State as an entertainer, such as theatre, motion picture, radio or television artist, 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 Contracting 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, 15 and 16, 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 sub-division, 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 19

NON-GOVERNMENTAL PENSIONS

1. Any pension other than pension to which paragraph (1) of Article 20 applies and any annuity derived from sources within a Contracting State by an individual, who is a resident of the other Contracting State, shall be taxable only in the first-mentioned Contracting State.

2. The term "pension" as used in Article 20 and this Article means periodic payments made in consideration for services rendered or by way of compensation for injuries received.

3. The term "annuity" as used in paragraph (1), means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payment in return for adequate and full consideration in money or money's worth.

ARTICLE 20

GOVERNMENTAL REMUNERATION AND PENSION

1. Remuneration including pensions paid by or out of funds by a Contracting State or a political sub-division or a local authority thereof, to any individual who is a citizen of that Contracting State in respect of services rendered to that Contracting State or political sub-division or local authority thereof in the discharge of functions of a governmental nature shall be taxable only in that State.

2. The provisions of paragraph (1) shall not apply to remuneration and pensions in respect of services rendered in connection with any business carried on by the Government of either of the Contracting States or a political sub-division or a local authority thereof for the purpose of profit.

3. The provisions of paragraph (1) of this Article shall also apply to remuneration including pensions paid by the Reserve Bank of India and the Bangladesh Bank.

1 [ARTICLE 21

STUDENTS

1. A student who is or was a resident of one of the Contracting States immediately before visiting the other Contracting State and who is present in that other Contracting State solely for the purpose of his education or training, shall be exempt from tax in that other State on:

(a) grants, allowances, scholarships or awards; or

(b) payments made to him by persons residing outside that other State for the purposes of his maintenance, education or training; or

(c) remuneration which he derives from an employment which he exercises in the other Contracting State if the

employment is directly related to his studies.

2. The benefits of this Article shall extend only for such period of time as may be reasonable or customarily required to complete the education or training undertaken, but in no event shall any individual have the benefits of this Article, for more than six consecutive years from the date of his first arrival in that other State for the purpose of his education or training.]

1. Substituted by Notification No. 50/2013 [F.No.500/27/2007-FTD-II], dated 4-7-2013, w.r.e.f. 13-6-2013. Prior to its substitution, Article 21 read as under:

"ARTICLE 21

STUDENTS, TRAINEES AND APPRENTICES

1. An individual who is a resident of a Contracting State and who is temporarily present in the other Contracting State, solely—

(a) as a student at a recognised university, college, school or other educational institution in the other Contracting State, or

(b) as a business or technical apprentice in an organisation other than a permanent establishment of an enterprise of the first-mentioned Contracting State, or

(c) as the recipient of a grant, allowance or award for the primary purpose of study or research, from a religious, charitable, scientific or educational organisation,

shall be exempt from tax in that other Contracting State in respect of—

(i) the remittances from abroad for the purpose of his maintenance, education, study, research or training the maximum period of exemption being five years;

(ii) the grant, allowance or award; and

(iii) any amount not exceeding the sum of Rs. 15,000 per annum or its equivalent sum in Bangladesh currency during the 'previous year' or 'income year', as the case may be, representing remuneration for an employment in that other Contracting State if the employment is related with his studies or his training or if it is necessary for his maintenance.

2. An individual who is a resident of a Contracting State and who is temporarily present in the other Contracting State for a period not exceeding one year, as an employee of, or under contract with, an enterprise of the first-mentioned Contracting State or an organisation referred to in sub-paragraph (c) of paragraph (1), solely to acquire technical, professional or business experience from a person other than such enterprise or organisation, shall be exempt from tax in that other Contracting State in respect of remuneration for such period for his services directly related to the acquisition of such experience, to the extent such remuneration does not exceed the sum of Rs. 12,000 per annum or its equivalent sum in Bangladesh currency, during the 'previous year' or the 'income year', as the case may be.

3. An individual who is a resident of a Contracting State and who is temporarily present in the other Contracting State under arrangements with the Government of that other Contracting State or any agency thereof solely for the purpose of training, study or orientation shall be exempt from tax in that other Contracting State in respect of remuneration received by him on account of such training, study or orientation."

ARTICLE 22

PROFESSORS, TEACHERS AND RESEARCHERS

1. A professor or a teacher who visits a Contracting State for the purposes of teaching or engaging in research, or both, at a

University, college, school or other approved institution in that Contracting State and who is, or was immediately before such visit, a resident of the other Contracting State, shall be exempt from tax in the first-mentioned Contracting State on any remuneration for such teaching or research for a period not exceeding two years, from the date of his arrival in that Contracting State.

2. This Article shall not apply to income from research if such research is undertaken primarily for the private benefit of a specific person or persons.

3. For the purposes of this Article and Article 21, an individual shall be deemed to be a resident of a Contracting State if he is resident in that Contracting State in the 'previous year' or 'income year' in which he visits the other Contracting State, or in the immediately preceding 'previous year' or 'income year', as the case may be.

4. For purposes of paragraph (1), 'approved institution' means an institution which has been approved in this regard by the competent authority of the concerned Contracting State.

ARTICLE 23

INCOME OF GOVERNMENT AND INSTITUTIONS

1. The Government of one of the Contracting States shall be exempt from tax in the other Contracting State in respect of any income derived by such Government from that other Contracting State.

2. For the purposes of paragraph (1) of this Article, the term 'Government'—

(a) in the case of India means the Government of India and shall include—

(i) the Governments of the States and the Union Territories of India;

(ii) the Reserve Bank of India;

(iii) any such institution or body as may be agreed from time to time between the two Contracting States,

(b) in the case of Bangladesh means the Government of the People's Republic of Bangladesh and shall include—

(i) the Bangladesh Bank;

(ii) any such institution or body as may be agreed from time to time between the two Contracting States.

ARTICLE 24

INCOME NOT EXPRESSLY MENTIONED

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

ARTICLE 25

METHODS FOR ELIMINATION OF DOUBLE TAXATION

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

Subject to the provisions of Indian tax laws regarding the allowance as a credit against Indian tax of tax payable in any country other than India (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 within Bangladesh which has been subjected to tax both in Bangladesh and India shall be allowed as a credit against Indian tax payable in respect of that income. The credit shall not, however, exceed that proportion of Indian tax which the income from sources within Bangladesh bears to the entire income subject to Indian tax :

Provided that such credit shall not exceed Indian tax (as computed before allowing any such credit), which is appropriate

to the income derived from sources within Bangladesh, so however, that where such resident is a company by which surtax is payable in India the credit aforesaid shall be allowed in the first instance, against income-tax payable by the company in India and as to the balance, if any, against surtax payable by it in India.

(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 if the Bangladesh tax had not been exempted or reduced in accordance with the following provisions of Bangladesh law :

(a) clause (x) of section 29(1), section 45 and section 46 of the Income-tax Ordinance, 1984;

(b) paragraph 7 of the Third Schedule to the Income-tax Ordinance, 1984;

(c) paragraphs 10, 11, 12, 13, 15 and 22 of Part B of the Sixth Schedule to the Income-tax Ordinance, 1984;

(d) paragraphs (c), (e), (f), (g) and (h) of Notification number S.R.O. 417A-L/76, dated 29 November, 1976, and paragraphs (a), (b) and (d) of the said Notification so far as the exemption or relief relates to loans made with a view to promoting economic development in Bangladesh;

So far as they were in force on, and have not been modified since, the date of signature of this Convention, or have been modified only in minor respects so as not to affect their general character; or

(e) under any other provision which may subsequently be made granting an exemption or reduction of tax which is agreed by the competent authorities of the Contracting States to be of a substantially similar character, if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general 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 11 and 15 per cent of the gross amount of dividends in the case of dividends referred to in paragraph 2(b) of Article 11;

(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 hereof), the Indian tax payable (excluding in the case of dividends, tax payable in respect of profits out of which the dividend is paid) under the law of India and in accordance with this Convention, whether directly or by deduction, by a resident of Bangladesh in respect of income from sources within India which has been subjected to tax both India and Bangladesh shall be allowed as a credit against Bangladesh 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 purpose of paragraph (3) of this Article the term "Indian tax payable" shall be deemed to include any amount which would have been payable as Indian tax for any year but for an exemption or reduction of tax granted for that year or any part thereof under:

(a) any of the following provisions, that is to say, sections 10(4), 10(4A), 10(6)(vii), 10(15)(iv), 10A, 32A, 33A, 35C, 35CC, 54E, 80CC, 80HH, 80HHA, 80-I, 80J, 80K, 80L of the Income-tax Act, 1961; or

(b) any other provisions which may subsequently be made granting an exemption or reduction of tax which is agreed by the competent authorities of the Contracting States to be of a substantially similar character if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general 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 11 and 15 per cent of the gross amount of dividends in the case of dividends referred to in paragraph 2(b) of Article 11;

(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.

CHAPTER V

SPECIAL PROVISIONS

ARTICLE 26

NON-DISCRIMINATION

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances and under the same conditions are or may be subjected.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other Contracting State than the taxation levied on enterprises of that other Contracting State carrying on the same activities in the same circumstances and under the same conditions.
3. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements in which other similar enterprises of that first-mentioned Contracting State are or may be subjected in the same circumstances and under the same conditions.
4. Nothing contained in paragraphs (1), (2) and (3) of this Article shall be construed as—
 - (a) obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions which it grants to its own residents;
 - (b) affecting any provisions of the tax laws of the respective Contracting States regarding the imposition of tax on non-resident persons as such;
 - (c) affecting any provisions of the tax laws of the respective Contracting States regarding any tax concessions granted to persons fulfilling specified conditions.
5. In this Article the term "taxation" means taxes which are the subject of this Convention.

ARTICLE 27

MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may notwithstanding the remedies provided by the national laws of those Contracting States present the case to the competent authority of the Contracting State of which he is a resident. The case must be presented within three years from the date of the assessment or of the withholding of tax at the source, whichever is later.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State with a view to the avoidance of taxation not in accordance with this Convention. Any agreement reached shall be implemented notwithstanding any time limits in the national laws 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 this Convention. They may also consult together for the elimination of double taxation in cases not provided for in this Convention.

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

2 [ARTICLE 28

EXCHANGE OF INFORMATION

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

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes and may disclose the information in public court proceedings or in judicial decisions. The information may not be disclosed to any other authority or enforcement agency of the requesting Contracting State without the express written consent of the competent authority of the requested Contracting State.

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

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- (b) to supply information (including documents and certified copies thereof) which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).

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

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

2. Substituted by Notification No. 50/2013 [F.No.500/27/2007-FTD-II], dated 4-7-2013, w.r.e.f. 13-6-2013. Prior to its substitution, Article 28 read as under:

"ARTICLE 28

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 for the prevention or detection of evasion or avoidance of the taxes which are the subject of this Convention. Any information so exchanged shall be treated as secret but may be disclosed only to persons (including a court or administrative body) concerned with the assessment, collection, enforcement or prosecution in respect of the taxes which are the subject of this Convention, or to persons with respect to whom the information relates.
2. The exchange of information shall be either on a routine basis or on request with reference to particular cases, or both. The competent authorities of the Contracting States shall agree from time to time on the list of information which shall be furnished on a routine basis.
3. In no case shall the provisions of paragraph (1) be construed so as to impose on a Contracting State the obligation—
 - (a) to carry out administrative measures at variance with the laws or administrative practice of that or of the other Contracting State;
 - (b) to supply information which are 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 29

ASSISTANCE IN COLLECTION

1. The two Contracting States undertake to lend assistance and support to each other, in the collection of the taxes to which this Convention relates, in the cases where the taxes are definitely due according to the laws of the Contracting State making the request.
2. In the case of a request for enforcement of collection, tax claims of either of the Contracting States which have been finally determined will be accepted for enforcement by the other Contracting State to which the request is made and collected in that Contracting State in accordance with the laws applicable to the enforcement and collection of its own taxes.
3. In the case of Indian tax, the request will be sent by the Central Board of Direct Taxes, Ministry of Finance (Department of Revenue) to the National Board of Revenue of the Government of the People's Republic of Bangladesh and will be accompanied by such certificate as is required by the laws of India to establish that the taxes have been finally determined and are due from the taxpayer.
4. In the case of Bangladesh tax, the request will be sent by the National Board of Revenue of the Government of the People's Republic of Bangladesh to the Central Board of Direct Taxes, Ministry of Finance (Department of Revenue) in India and will be accompanied by such certificate as is required by the laws of Bangladesh to establish that the taxes have been finally determined and are due from the taxpayer.
5. Where the tax claim has not become final by reason of its being subject to appeal or any other proceeding, a Contracting State may, in order to protect its revenues, request the other Contracting State to take such interim measures in this behalf as are lawful under the laws of that other Contracting State.
6. A request for assistance in collection of taxes due from a taxpayer shall be made only if adequate assets of that taxpayer are not available for recovering the taxes from him in the Contracting State making the request.
7. The Contracting State in which tax is recovered in pursuance of paragraphs (1), (2) and (5) of this Article shall

immediately thereafter remit the amount so recovered to the Contracting State which made the request but it shall be entitled to reimbursement of costs, if any, incurred in the course of rendering assistance in the recovery of such tax.

ARTICLE 30

DIPLOMATIC AND CONSULAR OFFICIALS

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

CHAPTER VI

FINAL PROVISIONS

ARTICLE 31

ENTRY INTO FORCE

1. This Convention shall be ratified and the instruments of ratification shall be exchanged as soon as possible.
2. This Convention shall enter into force upon the exchange of the instruments of ratification and its provisions shall have effect :
 - (a) 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 exchange of instruments of ratification takes place; and
 - (b) in India, for any year of assessment beginning on or after the first day of April in the calendar year next following that in which the exchange of instruments of ratification takes place.

ARTICLE 32

TERMINATION

This Convention shall remain in force indefinitely but either Contracting State may, on or before June 30 in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State, through diplomatic channels, written notice of termination. In such event, the Convention shall cease to have effect :

(a) in Bangladesh :

In respect of income assessable for any year of assessment commencing on 1st day of July in the calendar year next following that in which such notice is given, and subsequent years;

(b) in India :

In respect of income assessable for any year of assessment commencing on 1st day of April in the calendar year next following that in which such notice is given, and subsequent years.

In witness whereof the undersigned, duly authorised thereto, by their respective Governments, have signed this Convention.

Done in duplicate at New Delhi on 27th August, 1992 in Hindi, Bengali and English languages, all texts being equally authentic. In the case of divergence of interpretation the English text shall prevail.

PROTOCOL

SECTION 90 OF THE INCOME-TAX ACT, 1961 - DOUBLE TAXATION AGREEMENT - AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION AND PREVENTION OF FISCAL EVASION WITH FOREIGN COUNTRIES - BANGLADESH -

AMENDMENT IN NOTIFICATION NO. GSR 758(E), DATED 8-9-1992

NOTIFICATION NO. 50/2013 [F.NO.500/27/2007-FTD-II] DATED 4-7-2013

Whereas the annexed Protocol amending the Convention between the Government of the Republic of India and the Government of the People's Republic of Bangladesh for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (hereinafter referred to as "Protocol") signed on the 16th day of February, 2013, shall enter into force on the 13th day of June, 2013, being the date of the later of the notifications after completion of the procedures as required by the laws of the respective countries for the entry into force of the Protocol, in accordance with the provisions of Article 3 of the said Protocol.

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby directs that all the provisions of the Protocol annexed hereto shall be given effect to in the Union of India with effect from the 13th day of June, 2013.

ANNEXURE

PROTOCOL AMENDING THE CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF THE PEOPLES REPUBLIC OF BANGLADESH FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

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

Desiring to amend the Convention between the Government of the Republic of India and the Government of the People's Republic of Bangladesh for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed at New Delhi on the 27th day of August, 1991 (in this Protocol referred to as "the Convention"),

Have agreed as follows:

ARTICLE 1

The Convention is amended by omitting Article 21 and substituting:

"ARTICLE 21

STUDENTS

1. A student who is or was a resident of one of the Contracting States immediately before visiting the other Contracting State and who is present in that other Contracting State solely for the purpose of his education or training, shall be exempt from tax in that other State on:

(a) grants, allowances, scholarships or awards; or

(b) payments made to him by persons residing outside that other State for the purposes of his maintenance, education or training; or

(c) remuneration which he derives from an employment which he exercises in the other Contracting State if the employment is directly related to his studies.

2. The benefits of this Article shall extend only for such period of time as may be reasonable or customarily required to complete the education or training undertaken, but in no event shall any individual have the benefits of this Article, for

more than six consecutive years from the date of his first arrival in that other State for the purpose of his education or training."

ARTICLE 2

The Convention is amended by omitting Article 28 and substituting:

"ARTICLE 28

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information (including documents and certified copies thereof) as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.
2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes and may disclose the information in public court proceedings or in judicial decisions. The information may not be disclosed to any other authority or enforcement agency of the requesting Contracting State without the express written consent of the competent authority of the requested Contracting State.
3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:
 - (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
 - (b) to supply information (including documents and certified copies thereof) which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
 - (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).
4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.
5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person."

ARTICLE 3

ENTRY INTO FORCE

The Contracting States shall notify each other in writing through diplomatic channel of the completion of their domestic requirements for the entry into force of this Protocol. The Protocol, which shall form an integral part of the Convention,

shall enter into force on the date of the last notification, and thereupon shall have effect from the date of entry into force of this Protocol.

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

DONE in duplicate at Dhaka, Bangladesh this 16th day of February, 2013, in the Hindi, Bengali and English languages, all texts being equally authentic. In the case of divergence of interpretation the English text shall prevail.



INDIA- BANGLADESH

(LIMITED MULTILATERAL AGREEMENT)

The original text of the multilateral agreement as signed between India and Bangladesh can be referred to below:

BANGLADESH

AGREEMENT AMONG THE GOVERNMENTS OF SAARC MEMBER STATES FOR AVOIDANCE OF DOUBLE TAXATION AND MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS

WHEREAS the annexed Agreement among the Governments of SAARC (South Asian Association for Regional Cooperation) Member States comprising the People's Republic of Bangladesh, the Kingdom of Bhutan, the Republic of India, the Republic of Maldives, the Kingdom of Nepal, the Islamic Republic of Pakistan and the Democratic Socialist Republic of Sri Lanka for the avoidance of double taxation and mutual administrative assistance in tax matters signed in Dhaka, Bangladesh on the 13th day of November, 2005 shall come into force on the 19th day of May, 2010, being the thirtieth day after the notification dated 19th April, 2010 issued by SAARC Secretariat regarding completion of all formalities, including ratification, wherever applicable, by all Member States, in accordance with Article 16 of the said Agreement;

NOW, THEREFORE, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby directs that all the provisions of the said Agreement shall be given effect to in the Union of India with effect from the 1st day of April, 2011.

Notification : No. 3/2011 [SO 34(E)]-FTD-II [F.NO. 500/96/97-FTD-II], DATED 10-1-2011

ANNEXURE

SAARC LIMITED MULTILATERAL AGREEMENT ON AVOIDANCE OF DOUBLE TAXATION AND MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS

Preamble

The Governments of the SAARC (South Asian Association for Regional Cooperation) Member States comprising the People's Republic of Bangladesh, the Kingdom of Bhutan, the Republic of India, the Republic of Maldives, the Kingdom of Nepal, the Islamic Republic of Pakistan and the Democratic Socialist Republic of Sri Lanka;

Desiring to conclude an Agreement on Avoidance of Double Taxation and Mutual Administrative Assistance in tax matters with a view to promoting economic cooperation amongst the SAARC Member States

Have agreed as follows :

ARTICLE 1

GENERAL DEFINITIONS

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

(a) the term "Member State" means one of the States as per Schedule I;

(b) the term "person" includes an individual, a company, a body of persons and any other entity which is treated as a taxable unit under the taxation laws in force in the respective Member States;

(c) the term "tax" means, tax(es) covered as per Schedule II, as the context requires;

- (d) the term "Competent Authority" means Competent Authority as per Schedule III;
(e) the term "national" means any individual possessing the nationality of a Member State; and
(f) the term "fiscal year" means the year as defined in Schedule IV.

2. As regards the application of the Agreement at any time by a Member State any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that Member State for the purposes of the taxes to which the Agreement applies and any meaning under the applicable tax laws of that Member State prevailing over a meaning given to the term under other laws of that Member State.

ARTICLE 2

PERSONS COVERED

This Agreement shall apply to persons who are residents of one or more of the Member States, in respect of which it has entered into force in accordance with Article 16.

ARTICLE 3

TAXES COVERED

1. This Agreement shall apply to taxes on income imposed by or on behalf of the Member States.
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 and taxes on the total amounts of wages or salaries paid or deemed to be paid by enterprises.
3. The existing taxes to which the Agreement shall apply are listed in Schedule II.
4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The Competent Authorities of the Member States shall notify the SAARC Secretariat of any significant changes that have been made in their respective taxation laws.

ARTICLE 4

RESIDENT

1. For the purposes of this Agreement, the term "resident of a Member State" means any person who, under the laws of that Member State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that Member State and any political sub-division or local authority thereof. This term, however, does not include any person who is liable to tax in that Member State in respect only of income from sources in that Member State.
2. Where, by reason of the provisions of paragraph 1, an individual is a resident of more than one Member State, his/her status shall be determined as follows :
 - (a) he/she shall be deemed to be a resident only of the Member State in which he/she has a permanent home available to him/her; if he/she has a permanent home available to him/her in more than one Member State, he/she shall be deemed to be a resident only of the Member State with which his/her personal and economic relations are closer (centre of vital interests);
 - (b) if the Member State in which he/she has his/her centre of vital interests cannot be determined, or if he/she has not a permanent home available to him/her in any Member State, he/she shall be deemed to be a resident only of the Member State in which he/she has an habitual abode;
 - (c) if he/she has an habitual abode in more than one Member State or in neither of them, he/she shall be deemed to be a

resident only of the Member State of which he/she is a national;

(d) if he/she is a national of more than one Member State or of none of them, the Competent Authorities of the concerned Member 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 more than one Member State, it shall be deemed to be a resident only of the Member State in which its place of effective management is situated. If the Member State in which its place of effective management is situated cannot be determined, then the Competent Authorities of the concerned Member States shall settle the question by mutual agreement.

ARTICLE 5

EXCHANGE OF INFORMATION

1. The Competent Authorities of the Member States shall exchange such information, including documents and public documents or certified copies thereof, as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Member States concerning taxes covered by this agreement insofar as the taxation thereunder is not contrary to the Agreement. Any information received by a Member State shall be treated as secret in the same manner as information obtained under the domestic laws of that Member State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with 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 agreement. 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 Member State the obligation :

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

(b) to supply information, including documents and public documents or certified copies thereof, which are not obtainable under the laws or in the normal course of the administration of that or of the other Member State;

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

ARTICLE 6

ASSISTANCE IN THE COLLECTION OF TAXES

1. The Member States shall lend assistance to each other in the collection of revenue claims. The Competent Authorities of the Member States may, by mutual agreement, settle the mode of application of this Article.

2. The term "revenue claim" as used in this Article means an amount owed in respect of taxes covered by the Agreement together with interest, penalties and costs of collection or conservancy related to such amount.

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

4. When a revenue claim of a Member State is a claim in respect of which that Member State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the Competent

Authority of that Member State, be accepted for purposes of taking measures of conservancy by the Competent Authority of the other Member State. That other Member State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other Member State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned Member State or is owed by a person who has a right to prevent its collection.

5. The provisions of this Article shall be invoked on request of a Member State only after all permissible measures of recovery under the domestic laws of that Member State have been exhausted.

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

7. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Member State shall only be brought before the courts or administrative bodies of that Member State. Nothing in this Article shall be construed as creating or providing any right to such proceedings before any court or administrative body of the other Member State.

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

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

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

9. In no case shall the provisions of this Article be construed so as to impose on a Member State the obligation :

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

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

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

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

ARTICLE 7

SERVICE OF DOCUMENTS

1. At the request of the applicant Member State the requested Member State shall serve upon the addressee, documents and public documents including those relating to judicial decisions, which emanate from the applicant Member State and which relate to a tax covered by this Agreement.

2. The requested Member State shall effect service of documents, including public documents :

- (a) by a method prescribed by its domestic laws for the service of documents of a substantially similar nature;
- (b) to the extent possible, by a particular method requested by the applicant Member State or the closest to such method available under its own laws.
3. A Member State may effect service of documents directly through the post on a person in another Member State.
4. Nothing in the Agreement shall be construed as invalidating any service of documents by a Member State in accordance with its laws.
5. When a document is served in accordance with this Article and it is not in English language, the same should be accompanied by a translation into English.

ARTICLE 8

PROFESSORS, TEACHERS AND RESEARCH SCHOLARS

1. A professor, teacher or research scholar who is or was a resident of the Member State immediately before visiting the other Member State for the purpose of teaching or engaging in research, or both, at a university, college or other similar approved institution in that other Member State shall be exempt from tax in that other Member State on any remuneration for such teaching or research for a period not exceeding two years from the date of his/her arrival in that other Member State.
2. For the purposes of this Article, an individual shall be deemed to be a resident of a Member State if he/she is resident in that Member State in the fiscal year in which he/she visits the other Member State or in the immediately preceding fiscal year.
3. For the purposes of paragraph 1 "approved institution" means an institution which has been approved in this regard by the Government of the concerned Member State.

ARTICLE 9

STUDENTS

1. A student who is or was a resident of one of the Member States immediately before visiting the other Member State and who is present in that other Member State solely for the purpose of his/her education or training shall, besides grants, loans and scholarships and any payments received from sources outside that State for the purpose of his/her maintenance, education or training, be exempt from tax in that other Member State on remuneration which he/she derives from an employment which he/she exercises in the other Member State if the employment is directly related to his/her studies.
2. The exemption available under paragraph 1 above in respect of remuneration from employment shall not exceed an amount equal to US\$ 3000 per annum.
3. The benefits of this Article shall extend only for such period of time as may be reasonable or customarily required to complete the education or training undertaken, but in no event shall any individual have the benefits of this Article, for more than six consecutive years from the date of his/her first arrival in that other Member State.

ARTICLE 10

TRAINING

1. The Member States shall endeavour to hold and organise training programmes, seminars and workshops for the tax administrators with the objective of :
- (i) providing a common forum for senior tax administrators to meet and discuss problems of common concern;

- (ii) enhancing the technical and administrative knowledge and skills of tax administrators; and
- (iii) evolving strategies to combat common tax problems like tax avoidance/evasion in the SAARC region.

ARTICLE 11

SHARING OF TAX POLICY

1. Each Member State shall endeavour to bring out a yearly report on changes made in its tax laws. This may also cover introduction of new systems or techniques for circulation among the Member States.
2. A Member State may, on request, make available its pool of talented experts to other Member States for the purposes of drafting and organising legislation, tax procedures, operational management, on the job training programmes, information system and technology etc.

ARTICLE 12

IMPLEMENTATION

The Member States shall hold periodic consultations, as appropriate, of Competent Authorities, with a view to facilitating the effective implementation of this Agreement.

ARTICLE 13

REVIEW

The Member States shall meet in order to review this Agreement on request or at the end of five years from the date of its entry into force, unless they notify the SAARC Secretariat, in writing, that no such review is necessary.

ARTICLE 14

AMENDMENTS

This Agreement may be amended by consensus. Any such amendment will become effective upon the deposit of instrument(s) of acceptance with the Secretary-General of SAARC by all Member States and issuance of notification thereof by the SAARC Secretariat. Such an amendment shall have effect in the Member States from the date of commencement of their respective fiscal year following the issuance of notification by the SAARC Secretariat.

ARTICLE 15

DEPOSITORY

This Agreement will be deposited with the Secretary General of SAARC, who will furnish a certified copy thereof to each Member State.

ARTICLE 16

ENTRY INTO FORCE

1. This Agreement shall enter into force on the thirtieth day after the notification issued by the SAARC Secretariat regarding completion of all formalities, including ratification, wherever applicable, by all Member States.
2. The provisions of this Agreement shall have effect :
 - (i) In Bangladesh
 - (a) in respect of taxes withheld at source, in respect of amounts paid or credited on or after the first day of July next following the date upon which the Agreement enters into force;

(b) with regard to other taxes, in respect of tax years beginning on or after the first day of July next following the date upon which the Agreement enters into force;

(ii) In Bhutan

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

(b) with regard to other taxes, in respect of tax years beginning on or after the first day of July next following the date upon which the Agreement enters into force;

(iii) In India, in respect of income derived in any fiscal year on or after the first day of April next following the date upon which the Agreement enters into force;

(iv) In Maldives in respect of income derived in any fiscal year on or after the first day of January next following the date upon which the Agreement enters into force;

(v) In Nepal in respect of income arising in any year of income beginning on or after the first day of Nepalese fiscal year starting mid-July next following the date upon which the Agreement enters into force;

(vi) In Pakistan :

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

(b) with regard to other taxes, in respect of tax years beginning on or after the first day of July next following the date upon which the Agreement enters into force; and

(vii) In Sri Lanka in respect of income derived on or after the first day of April of the year next following the date upon which the Agreement enters into force.

ARTICLE 17

TERMINATION - Limited Multilateral Agreement

This Agreement shall remain in force indefinitely until terminated by a Member State. A Member State may terminate the Agreement, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year beginning after the expiration of five years from the date of entry into force of the Agreement. In such event, the Agreement shall cease to have effect :

(i) In Bangladesh, in respect of income derived in any fiscal year on or after the first day of July next following the expiration of six months period from the date on which the written notice of termination is given;

(ii) In Bhutan, in respect of income derived in any fiscal year on or after the first day of July next following the expiration of six months period from the date on which the written notice of termination is given;

(iii) In India, in respect of income derived in any fiscal year on or after the first day of April next following the expiration of six months period from the date on which the written notice of termination is given;

(iv) In Maldives, in respect of income derived in any fiscal year on or after the first day of January next following the expiration of six months period from the date on which the written notice of termination is given;

(v) In Nepal, in respect of income derived in any fiscal year on or after the first day of mid-July next following the expiration of six months period from the date on which the written notice of termination is given;

(vi) In Pakistan, in respect of income derived in any fiscal year on or after the first day of July next following the expiration of six months period from the date on which the written notice of termination is given; and

(vii) In Sri Lanka, in respect of income derived on or after the first day of April of the year next following the expiration of six months period from the date on which the written notice of termination is given;

IN WITNESS WHEREOF, the undersigned, duly authorized thereto, have signed this Agreement.

DONE at Dhaka, Bangladesh, On This The Thirteenth Day of November Two Thousand Five, In Nine Originals In English Language, All Texts Being Equally Authentic.

PROTOCOL - Limited Multilateral Agreement

On formalization, this SAARC Limited Multilateral Agreement on Avoidance of Double Taxation and Mutual Administrative Assistance in Tax Matters shall be applicable only in the Member States where an adequate Direct Tax Structure is in place. Further, in case of a Member State where such a structure is not in place, this Agreement shall become effective from the date on which such a Member State introduces a proper Direct Tax Structure and notifies the SAARC Secretariat to this effect.

Further that in the event of a conflict between the provisions of this Limited Multilateral Agreement and that of any bilateral Double Taxation Avoidance Agreement between the Member States, the provisions of the Agreement signed or amended at a later date shall prevail.

DONE at Dhaka, Bangladesh, On This The Thirteenth Day of November Two Thousand Five, In Nine Originals In English Language, All Texts Being Equally Authentic.

SCHEDULE I

MEMBER STATES TO THE AGREEMENT

1. The People's Republic of Bangladesh
2. Kingdom of Bhutan
3. Republic of India
4. Republic of Maldives
5. Kingdom of Nepal
6. Islamic Republic of Pakistan
7. Democratic Socialist Republic of Sri Lanka

SCHEDULE II

TAXES COVERED

The existing taxes to which this Agreement shall apply :

- | | |
|------------------|--|
| 1. In Bangladesh | Taxes on income that is direct tax |
| 2. In Bhutan | Income-tax imposed under Income-tax Act, 2001 and the rules thereof |
| 3. In India | Income-tax, including any surcharge thereon |
| 4. In Maldives | Taxes on income that is direct tax |
| 5. In Nepal | Income-tax imposed under the Income-tax Act, 2058 |
| 6. In Pakistan | Taxes on Income |
| 7. In Sri Lanka | Income-tax including the income-tax based on the turnover of enterprises licensed by the Board of Investment |

SCHEDULE III

COMPETENT AUTHORITY

The term "Competent Authority" means :

- | | |
|------------------|---|
| 1. In Bangladesh | National Board of Revenue or its authorized representative |
| 2. In Bhutan | The Ministry of Finance or its authorized representative |
| 3. In India | The Finance Minister, Government of India, or its authorized representative |
| 4. In Maldives | Department of Inland Revenue, Ministry of Finance and Treasury |
| 5. In Nepal | His Majesty's Government of Nepal, Ministry of Finance or its authorized representative |
| 6. In Pakistan | Central Board of Revenue or its authorized representative |
| 7. In Sri Lanka | Commissioner General of Inland Revenue |

SCHEDULE IV

FISCAL YEAR

The term "fiscal year" means :

- | | |
|--------------------------|------------------------------------|
| 1. In case of Bangladesh | 1st July - 30th June |
| 2. In case of Bhutan | 1st July - 30th June |
| 3. In case of India | 1st April - 31st March |
| 4. In case of Maldives | 1st January - 31st December |
| 5. In case of Nepal | The fiscal year beginning mid-July |
| 6. In case of Pakistan | 1st July - 30th June |
| 7. In case of Sri Lanka | 1st April -31st March |



SERVING CLIENTS WORLDWIDE



The information contained herein is of a general nature. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. The information is not offered as an advice on any matter, and no one should act or fail to act based on such information without appropriate legal advice after a thorough examination of the particular situation. The information does not make us responsible or liable for any errors and/or omissions, whether it is now or in the future. We do not assume any responsibility and/or liability for any consequences.

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Chandrawat & Partners is a leading and rapidly growing full-service firm providing high quality professional and corporate services to foreign and local clients, representing companies and individuals in a wide range of sectors through separate entities established in various countries worldwide.

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