

MINISTRY OF FINANCE

(Department of Revenue)

NOTIFICATION

New Delhi, the 19th March, 2024.

(Income- Tax)

S.O. 1484(E).—Whereas, the Convention between the Government of the Republic of India and the Kingdom of Spain for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital came into force on the 12th January, 1995, after the notification by both the Contracting States to each other of the completion of the procedures required under their laws for bringing into force the said Convention;

And whereas, the Central Government in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961), had directed that all the provisions of the said Convention annexed to the notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 356 (E), dated the 21st April, 1995, shall be given effect to in the Union of India;

And whereas, paragraph 7 of the Protocol dated the 8th February, 1993, to the aforesaid Convention provides that if under any Convention or Agreement between India and a third State which is a Member of the Organisation for Economic Cooperation and Development, which enters into force after the 1st January, 1990, India limits its taxation at source on royalties or fees for technical services to a rate lower than the rate provided for in this Convention on the said items of income, the same rate as provided for in that Convention or Agreement on the said items of income shall also apply under this Convention;

And whereas, in the Convention between India and Germany, which entered into force on the 26th October, 1996, and Germany was a member of the Organisation for Economic Co-operation and Development at the time of entering into the Convention with India, the Government of India has limited the taxation at source on royalties and fees for technical services to a rate lower than that provided in the Convention between India and Spain on the said items of income;

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 the following modification shall be made in the Convention notified vide said notification number G.S.R. 356 (E), dated the 21st April, 1995, which are necessary for implementing the said Convention between India and Spain, namely:---

In the said notification, in the Convention annexed therewith between the Republic of India and Kingdom of Spain, in Article 13 relating to Royalties and Fees for Technical Services, for paragraph 2, the following paragraph shall be substituted, namely:---

“2. However, such royalties and fees for technical services 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 or fees for technical services, the tax so charged shall not exceed ten per cent of the gross amount of royalties or fees for technical services.”.

2. The paragraph 2 of Article 13 of the said Convention, as amended by this notification, shall be applicable with effect from the assessment year 2024-25.

[Notification No. 33/2024 F.No. 503/2/1986-FTD-I]

SUKHAD CHATURVEDI, Under Secy.