

Excess Profits Tax Act, 1940

15 of 1940

[06 April 1940]

CONTENTS

1. Short Title, Extent And Commencement
2. Definitions
3. Excess Profits Tax Authorities
4. Charge Of Tax
5. Application Of Act
6. Standard Profits
7. Relief On Occurrence Of Deficiency Of Profits
- 7 A . Special Provision For Chargeable Accounting Period Failing Partly Before And Partly After The End Of March, 1941
8. Successions And Amalgamations
9. Inter Connected Companies
10. Artificial Transactions
- 10A. Transactions Designed To Avoid Or Reduce Liability To Excess Profits Tax
11. Relief In Respect Of Double Excess Profits Taxation
- 11A. Agreement For Avoidance Of Double Taxation In Pakistan And India
12. Allowance Of Excess Profits Tax In Computing Income For Income Tax Purposes
13. Issue Of Notice For Assessment
14. Assessments
- 14A. Power To Make Provisional Assessments
15. Profits Escaping Assessments
16. Penalties
17. Appeals
- 1 8 . Appeal To Commissioner Against Appellate Assistant Commissioners Orders Imposing Penalties Or Enhancing Assessments Or Penalties
19. Power Of Revision
20. Rectification Of Mistakes
21. Application Of Provisions Of Act X1 Of 1922
- 21A. Application Of Income Tax Act Before 15Th Day Of August 1947, With Certain Modifications
22. Income Tax Papers To Be Available For The Purposes Of This Act
23. Failure To Deliver Returns Or Statements
24. False Statement And Declaration

25. Institution Of Proceedings And Composition Of Offences
26. Power Of National Board Of Revenue To Grant Relief In Special Cases
27. Power To Make Rules

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An Act to impose a tax on excess profits arising out of certain businesses. 1 2 3 WHEREAS it is expedient to impose a tax on excess profits arising out of certain businesses in the conditions prevailing during the present hostilities; It is hereby enacted as follows:-

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Excess Profits Tax Act, 1940.
- (2) It extends to the whole of Bangladesh.
- (3) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context,-

- (1) "accounting period" in relation to any business means
 - (a) where the accounts of the business are made up for successive periods of twelve months, each of such periods;
 - (b) in any other case, such period as the Excess Profits Tax Officer may determine:

Provided that in determining any accounting period under sub clause (b) the Excess Profits Tax Officer shall have regard to the period, if any, which is, or has been, determined as the previous year for that business for the purposes of the Income tax Act, 1922;

- (2) "Appellate Assistant Commissioner" means a person appointed to be an Appellate Assistant Commissioner of Excess Profits Tax under section 3;
- (3) "average amount of capital" means the average amount of capital employed in any business as computed in accordance with

the Second Schedule;

(4) "Board of Referees" means a Board of Referees appointed under section 3;

(5) "business" includes any trade, commerce or manufacture or any adventure in the nature of trade, commerce or manufacture or any profession or vocation, but does not include a profession carried on by an individual or by individuals in partnership if the profits of the profession depend wholly or mainly on his or their personal qualifications unless such profession consists wholly or mainly in the making of contracts on behalf of other persons or the giving to other persons of advice of a commercial nature in connection with the making of contracts:

Provided that where the functions of a company or of a society incorporated by or under any enactment consist wholly or mainly in the holding of investments or other property the holding of the investments or property shall be deemed for the purpose of this definition to be a business carried on by such company or society:

Provided further that all businesses to which this Act applies carried on by the same person shall be treated as one business for the purposes of this Act;

(6) "chargeable accounting period" means

(a) any accounting period falling wholly within the term beginning on the 1st day of September, 1939, and ending on the 31st day of March, 1946; and

(b) where any accounting period falls partly within and partly without the said term, such part of that accounting period as falls within the said term;

(7) "Commissioner" means a person appointed to be a Commissioner of Excess Profits Tax under section 3;

(8) "company" means a company as defined in the Companies Act, 1913, or formed in pursuance of an Act of Parliament of the United Kingdom or of Royal Charter or Letters Patent, or of an Act of the legislature of a British possession 4[* * *], and includes any foreign association whether incorporated or not which the National Board of Revenue may, by general or special order, declare to be a company for the purposes of this Act;

(9) "deficiency of profits" means

(i) where profits have been made in any chargeable accounting period, the amount by which such profits fall short of the standard profits;

(ii) where a loss has been made in any chargeable accounting period, the amount of the loss added to the amount of the standard

profits;

(10) "director" includes any person occupying the position of a director by whatever name called and also includes any person who-

(i) is a manager of the company or concerned in the management of the business; and

(ii) is remunerated out of the funds of the business; and

(iii) is the beneficial owner of not less than twenty per cent of the ordinary share capital of the company;

(11) "dividend" has the meaning assigned to the expression in section 2 of the Income tax Act, 1922;

(12) "Excess Profits Tax Officer" means a person appointed to be an Excess Profits Tax Officer under section 3;

(13) "Income" has the meaning assigned to the expression in section 2 of the Income-tax Act, 1922;

(14) "fixed rate" in relation to dividends on share capital, other than ordinary share capital, includes a rate fluctuating in accordance with the maximum rate of income-tax;

5[(14A) "Government" means, except where the context otherwise requires, the Government of the Peoples Republic of Bangladesh;]

(15) "Inspecting Assistant Commissioner" means a person appointed to be an Inspecting Assistant Commissioner of Excess Profits Tax under section 3;

(16) "loss" means a loss computed in the same manner as, for the purposes of this Act, profits are to be computed;

(16) "ordinary share capital" has the meaning assigned to that expression in sub-section (8) of section 9;

(17) "person" includes a Hindu undivided family;

(18) "prescribed" means prescribed by rules made under this Act;

(19) "profits" means profits as determined in accordance with the first Schedule;

(20) "standard profits" means standard profits as computed in accordance with the provisions of section 6;

(21) "statutory percentage" means-

(a) in relation to a business carried on by a body corporate (other than a company the directors whereof have a controlling interest therein), eight per cent per annum;

(b) in relation to a business carried on by a partnership of which one or more of the partners is a body corporate (other than a company the directors

whereof have a controlling interest therein), such a rate per cent as is equivalent to-

(i) eight per cent per annum on so much of the average amount of the capital employed in the business during the chargeable accounting period as represents the share of any such body corporate, and

(ii) ten per cent per annum on the remainder of that amount;

(c) in relation to a business to which neither sub-clause (a) nor sub-clause (b) applies, ten per cent per annum:

Provided that in relation to any decrease of capital the statutory percentage shall be in all cases six per cent:

Provided further that where the business was commenced on or after the 1st day of July, 1938, the foregoing percentages shall be increased from eight, ten and six per cent to ten, twelve and eight per cent respectively;

(21A) "taxable territories" has the meaning assigned to that expression by clause 6[(14AA)] of section 2 of the Income-tax Act, 1922.

(22) "written down value" has the meaning assigned to that expression in sub-section (5) of section 10 of the Income-tax Act, 1922.

3. Excess Profits Tax Authorities :-

(1) There shall be the following classes of excess profits tax authorities for the purposes of this Act, namely:-

(a) the National Board of Revenue;

(b) Commissioners of Excess Profits Tax;

(c) Assistant Commissioners of Excess Profits Tax, who may be either Appellate Assistant Commissioners of Excess Profits Tax or Inspecting Assistant Commissioners of Excess Profits Tax;

(d) Excess Profits Tax Officers;

(e) Boards of Referees.

(2) Every Commissioner of Excess Profits Tax, Appellate Assistant Commissioner of Excess Profits Tax, Inspecting Assistant Commissioner of Excess Profits Tax and Excess Profits Tax Officer shall be a person who is exercising the functions of Commissioner of Income-tax, Appellate Assistant Commissioner of Income-tax, Inspecting Assistant Commissioner of Income-tax and Income-tax Officer, respectively, under the Income-tax Act, 1922.

(3) The National Board of Revenue shall, subject to the provisions of sub section (2), appoint such persons as Commissioners of Excess Profits Tax, Appellate Assistant Commissioners of Excess Profits Tax, Inspecting Assistant Commissioners of Excess Profits

Tax and Excess Profits Tax Officers as it thinks fit and such persons shall perform their functions in respect of such cases as the National Board of Revenue may assign to them:

Provided that such directions shall be made entirely at the discretion of the National Board of Revenue, and, in particular, it shall be competent for that Board to assign a case or class of cases to an officer who is not exercising in respect of that case or class of cases the corresponding functions in relation to the charge of income tax under the Income tax Act, 1922.

(4) All officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the National Board of Revenue:

Provided that nothing in this sub section applies to a Board of Referees:

Provided further that no such orders, instructions or directions shall be given so as to interfere with the discretion of the Appellate Assistant Commissioner in the exercise of his appellate functions.

(5) A Board of Referees shall consist of not less than three and not more than five persons, of whom not less than one half shall be non officials having business experience, and one shall be a judicial officer who has exercised the powers of a District Judge or who possesses such qualifications as are normally required for appointment to the post of District Judge, and who has held judicial office for a period of not less than ten years.

(6) Subject to the provisions of sub section (5), the Government may make rules regulating the formation, composition and procedure of Boards of Referees.

4. Charge Of Tax :-

(1) Subject to the provisions of this Act, there shall, in respect of any business to which this Act applies, be charged, levied and paid on the amount by which the profits during any chargeable accounting period exceed the standard profits a tax (in this Act referred to as "excess profits tax") which shall, in respect of any chargeable accounting period ending on or before the 31st day of March, 1941, be equal to fifty per cent of that excess and shall, in respect of any chargeable accounting period beginning after that date, be equal to such percentage of that excess as may be fixed by the annual Finance Act:

Provided that any profits which are, under the provisions of sub section (3) of section 4 of the Income tax Act, 1922, exempt from

income tax, and all profits from any business of life insurance shall be totally exempt from excess profits tax under this Act:

Provided further that, in the case of any business which includes the mining of any mineral, any bonus paid by or through the Government in respect of increased output of the mineral shall be totally exempt from excess profits tax under this Act.

(2) Where a chargeable accounting period falls partly before and partly after the end of March, 1941, the foregoing provisions of this section shall apply as if so much of that chargeable accounting period as falls before, and so much of that chargeable accounting period as falls after, the said end of March were each a separate chargeable accounting period, and as if the excess of profits of that separate chargeable accounting period were an apportioned part of the excess of profits arising in the whole period determined in accordance with the provisions of section 7A.

5. Application Of Act :-

This Act shall apply to every business of which any part of the profits made during the chargeable accounting period is chargeable to income tax by virtue of the provisions of sub -clause (i) or sub clause (ii) of clause (b) of sub section (1) of section 4 of the Income tax Act, 1922, or of clause (c) of that sub section:

Provided that this Act shall not apply to any business the whole of the profits of which accrue or arise without the taxable territories where such business is carried on by or on behalf of a person who is resident but not ordinarily resident in the taxable territories unless the business is controlled in Bangladesh:

Provided further that where the profits of a part only of a business carried on by a person who is not resident in the taxable territories or not ordinarily so resident accrue or arise in the taxable territories or are deemed under the Income-tax Act, 1922, so to accrue or arise, then except where the business being the business of a person who is resident but not ordinarily resident in the taxable territories is controlled in Bangladesh, this Act shall apply only to such part of the business, and such part shall for all the purposes of this Act be deemed to be a separate business.

7[* * *]

6. Standard Profits :-

(1) For the purposes of this Act, the standard profits of a business in relation to any chargeable accounting period shall, subject to the

provisions of sub-sections (3) and (4), be an amount bearing to the profits of the business during the standard period, if in respect of that business a standard period is available, the same proportion as the chargeable accounting period bears to the standard period:

Provided that if the average amount of capital employed in the business during such chargeable accounting period is greater or less than the average amount of capital employed during the standard period, such amount shall be increased or decreased, as the case may be, by an amount calculated by applying the statutory percentage to the amount of such increase or decrease:

Provided further that in the case of a business which was commenced on or after the 31st day of March, 1936, the standard profits shall, at the option of the person carrying on the business, be an amount calculated by applying the statutory percentage to the average amount of capital employed in the business during such chargeable accounting period.

(2) For the purposes of this section the standard period shall, at the option of the person carrying on the business, be-

(a) the "previous year" as determined under section 2 of the Income tax Act, 1922, for the purpose of the income tax assessment for the year ending on the 31st day of March, 1937, or the previous year as so determined for the year ending on the 31st day of March, 1938; or

(b) the "previous year" as so determined for the year ending on the 31st day of March, 1937, and that for the year ending on the 31st day of March, 1939; or

(c) the "previous year" as so determined for the year ending on the 31st day of March, 1938, and that for the year ending on the 31st day of March, 1939; or

(d) the "previous year" as so determined for the year ending on the 31st day of March, 1939, and that for the year ending on the 31st day of March, 1940:

Provided that in no case shall any period of less than nine months be taken as a standard period.

(3) If, within the period specified in the notice issued under sub section (1) of section 13, or within the extended period allowed by the Excess Profits Tax Officer under the proviso to that sub section the person carrying on the business makes an application to the Excess Profits Tax Officer in this behalf, the Excess Profits Tax Officer shall refer the application to the Board of Referees, and if the Board is satisfied that during the standard period the profits of the business were less than might at the beginning of that period

have been reasonably expected, it may direct that the standard profits shall be computed as if the profits during the standard period were such greater amount as it think just:

Provided that such amount shall not exceed the statutory percentage of the average amount of the capital employed in the business unless the Board is satisfied that owing to some specific cause peculiar to the business it is just that a greater amount should be allowed:

Provided further that a determination on an application under this sub section -

(a) shall have effect with respect to all subsequent chargeable accounting periods;

(b) shall exclude any further application under this sub-section.

(4) The standard profits shall be taken to be Taka thirty six thousand in any case in which the standard profits computed in accordance with sub section (1) are less than this sum:

Provided that if the chargeable accounting period is greater or less than one year the sum of Taka thirty six thousand shall for the purpose of this sub section be increased or decreased proportionately.

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7. Relief On Occurrence Of Deficiency Of Profits :-

Where a deficiency of profits occurs in any chargeable accounting period in any business, the profits of the business chargeable with excess profits tax shall be deemed to be reduced and relief shall be granted in accordance with the following provisions:-

(a) the aggregate amount of the profits so chargeable for the previous chargeable accounting periods shall be deemed to be reduced by the amount of the deficiency of profits and the amount of excess profits tax payable in respect thereof shall be deemed to be reduced accordingly and the relief necessary to give effect to the reduction shall be given by repayment or otherwise;

(b) where the amount of the deficiency of profits exceeds the aggregate amount of the profits so chargeable for the previous chargeable accounting periods, or where there is no previous chargeable accounting period, the balance of the deficiency of profits or the whole of the deficiency, as the case may be, shall be applied in reducing any profits so chargeable for the next subsequent chargeable accounting period, and if and so far as it exceeds the amount of those profits, any profits so chargeable for

the next subsequent chargeable accounting period and so on:

Provided that a deficiency of profits occurring in a chargeable accounting period beginning on or after the 1st day of April, 1941, shall first be applied so as to reduce profits chargeable to tax arising in another chargeable accounting period beginning on or after the said 1st day of April, and a deficiency of profits occurring in a chargeable accounting period ending on or before the 31st day of March, 1941, shall first be applied so as to reduce profits chargeable to tax arising in another chargeable accounting period ending on or before the said 31st day of March; and where owing to an insufficiency of profits for chargeable accounting periods ending on or before the said 31st day of March, or, as the case may be, beginning on or after the said 1st day of April, the whole or any part of the deficiency is applied otherwise than as aforesaid-

(a) the application shall be treated as provisional only; and

(b) if it thereafter appears that there is no longer such an insufficiency as aforesaid, such adjustment shall be made as the National Board of Revenue may by written order direct:

Provided further that where a chargeable accounting period falls partly before and partly after the end of March, 1941, the provisions of the preceding proviso shall apply as if so much of the chargeable accounting period as falls before, and so much of the chargeable accounting period as falls after, the said end of March, were each a separate chargeable accounting period, and as if the deficiency of profits of that separate chargeable accounting period were an apportioned part of the deficiency of profits occurring in the whole period; and any apportionment required to be made by this proviso shall be made by reference to the number of months or fractions of months in each of the parts of the whole chargeable accounting period.

7A. Special Provision For Chargeable Accounting Period Failing Partly Before And Partly After The End Of March, 1941 :- .

(1) In the case of a chargeable accounting period such as is referred to in sub-section (2) of section 4, the excess of profits of each of the separate chargeable accounting periods into which the whole chargeable period is deemed to be divided for the purposes of that sub section, shall be determined in accordance with the provisions of sub sections (2), (3) and (4), and in those sections-

(a) references to the whole period, the first part of the period, and the second part of the period shall be construed, respectively, as references to the whole of the chargeable accounting period

deemed to be divided, so much thereof as falls before the end of March, 1941, and so much thereof as falls after the said end of March;

(b) "excess profits" means the amount by which the profits for any period exceed the standard profits for that period.

(2) The profits or loss of, and the standard profits for, the whole period shall be computed first on the basis that rule 5A of the First Schedule and rule 2A of the Second Schedule do not apply to the period, and secondly on the basis that the said rules do apply to the period, and it shall then be ascertained, on each basis, whether there are excess profits or a deficiency of profits for the whole period, and, if so, what is the amount thereof.

(3) There shall be deemed to be for the first part of the period excess profits or a deficiency of profits, as the case may be, equal to an apportioned part of the excess profits or deficiency of profits ascertained under sub section (2) on the first basis mentioned therein, and there shall be deemed to be for the second part of the period excess profits or a deficiency of profits, as the case may be, equal to an apportioned part of the excess profits or deficiency of profits ascertained under sub section (2) on the second basis mentioned therein; and, for the purpose of giving relief for deficiencies of profits under section 7, the first part of the period and the second part of the period shall each be treated as if it were a separate chargeable accounting period.

(4) Any apportionment required to be made by sub section (3) shall be made by reference to the number of months and fractions of months in each of the parts of the whole period.

8. Successions And Amalgamations :-

(1) As from the date of any change in the persons carrying on a business, the business shall, subject to the provisions of this section, be deemed for all the purposes of this Act except for the purposes of determining the amount of the statutory percentage to have been discontinued, and a new business to have been commenced.

(2) Where the change took place before the 1st day of September, 1939, and consisted in the death or retirement of a partner, or the taking in of a partner, the persons carrying on the business after the change may, by notice given in writing before the prescribed date to the Excess Profits Tax Officer, elect that, for the purposes

of the provisions of this Act relating to the computation of standard profits, the business shall not be deemed to have been discontinued.

(3) A business shall not, for the purposes of the provisions of this Act relating to the computation of standard profits, be deemed to be discontinued by reason of any change occurring on or after the 1st day of September, 1939, in the persons carrying it on, and the standard profits of the business in relation to any chargeable accounting period shall be computed accordingly, and, in particular, in computing the capital employed in the business after the change and in considering, for the purposes of computing the profits of, and the capital employed during, any chargeable accounting period, whether any and, if so, what deductions are to be made in respect of depreciation of buildings, plant and machinery, no regard shall be had to any consideration given in respect of the transfer of the business or any of the assets thereof on the occasion of the change.

(4) Where, on or after the 1st day of September, 1939, two or more businesses are amalgamated, the resulting business shall be treated for the purposes of the provisions of this Act relating to the computation of standard profits as if-

(a) it had been in existence throughout the period during which there were in existence any of the former businesses;

(b) any profits made or losses incurred or capital employed in any of those former businesses had been made, incurred or employed in the resulting business; and

(c) any assets of any of those former businesses had become assets of the resulting business when they became assets of the former business;

and, in particular, in computing the capital employed in the resulting business, and in considering, for the purposes of computing the profits of, and the capital, employed during, any chargeable accounting period, whether any and, if so, what deductions are to be made in respect of depreciation of buildings, plant and machinery, no regard shall be had to any consideration given in respect of the transfer of any of those former businesses or any of the assets thereof on the occasion of the amalgamation.

(5) Where, on or after the 1st day of September, 1939, part of a business is transferred as a going concern by the person theretofore carrying it on to another person, the part transferred and the part not transferred shall each be deemed for the purposes of the provisions of this Act relating to the computation of standard profits to be a continuation of the original business, and the said

provisions, including the provisions of this section relating to amalgamations, shall apply accordingly:

Provided that, for the purposes aforesaid, such apportionments shall be made of the profits made, and losses incurred, and the capital employed, in the original business, and of any assets of the original business as may appear to the Excess Profits Tax Officer, or on appeal in the prescribed time and manner to the Board of Referees, to that Board to be just.

(6) Notwithstanding anything in the foregoing provisions of this section, where a business was carried on immediately before the 1st day of April, 1936, and that business, or the main part of that business, was transferred after the said day and before the 1st day of September, 1939, by the person carrying it on to another person, the Excess Profits Tax Officer, if he is satisfied that the business carried on after the transference was not substantially different from the business or part transferred, shall, on the application of the person carrying on the business after the transference, treat that person, for the purposes of the provisions of this Act relating to the computation of standard profits, as if he had carried on the transferred business or part of the business as from the date of the commencement of that business.

(7) Where, on or after the 1st day of September, 1939, a partner in a firm carrying on a business to which this Act applies dies, then notwithstanding anything contained in sub section (1) any deficiency of profits in respect of any chargeable accounting period ending on or before the date of his death shall, if it has not been fully applied in reducing the profits of any chargeable accounting period under section 7, be carried forward and applied in reducing any profits from the same business carried on by the surviving partner or partners in the first chargeable accounting period after the death of the partner, and if and so far as it exceeds the amount of those profits, in reducing any profits from such business in the next subsequent chargeable accounting period and so on.

(8) Where-

(a) a business is, by virtue of sub section (2) or sub section (3), deemed not to have been discontinued; or

(b) a business is, by virtue of sub section (4), to be treated as if it had been in existence throughout the period during which there was in existence any other business; or

(c) a business is, by virtue of sub section (5), to be treated as a continuation of another business; or

(d) any person who is carrying on a business after a transfer is

treated, by virtue of sub section (6), as having carried on the business as from a date before the transfer, the provisions of this Act relating to the computation of profits and capital for the purposes of excess profits tax shall, both as respects the standard period and any chargeable accounting period, have effect subject to such modifications, if any, as the Excess Profits Tax Officer may think just, and the Excess Profits Tax Officer may make such alterations in the periods which would otherwise be the chargeable accounting periods of the business as he thinks proper: Provided that if the Excess Profits Tax Officer makes any such modifications and the person carrying on the business is dissatisfied with the modifications so made, or if the person carrying on the business is dissatisfied with the refusal of the Excess Profits Tax Officer to make any such modifications, he may, at any time before the expiry of forty five days from the date on which the order of the Excess Profits Tax Officer is communicated to him, appeal to the Board of Referees through the Excess Profits Tax Officer.

9. Inter Connected Companies :-

(1) Where any interest, annuity or other annual payment, or any royalty or rent, is paid by one company to another company, and one of those companies is a subsidiary of the other, or both are subsidiaries of a third company, the capital, profits and losses of both companies shall be computed for the purposes of this Act as if-

(a) the interest, annuity, annual payment, royalty or rent were not payable;

(b) any debt in respect of which any such interest is payable did not exist; and

(c) any asset in respect of which any such royalty or rent is payable were the property of the company paying the royalty or the rent.

(1A) Where-

(a) any debt is owing to any company by another company; and

(b) one of those companies is a subsidiary of the other, or both are subsidiaries of a third company; and

(c) no interest is payable in respect of the debt, but the circumstances in which the debt came into existence or is allowed to continue to exist are such that the debt represents in substance capital employed in the business of the debtor company, the capital of both companies shall be computed as if the debt did

not exist.

(2) Where -

(a) a company (hereinafter referred to as "the principal company") is resident in the taxable territories and is not a subsidiary of any other company resident in the taxable territories; and

(b) during the whole or any part of any chargeable accounting period of the principal company, another company, whether or not resident or carrying on business within the taxable territories (hereinafter referred to as "the subsidiary company") is a subsidiary of the principal company,

the following provisions of this section shall, subject to the provisions of section 5, have effect in relation to that chargeable accounting period.

(3) If the subsidiary company is a subsidiary of the principal company throughout the chargeable accounting period, such capital employed in, and profits or losses arising from, the business of the subsidiary company as is employed or arise in-

(i) the chargeable accounting period; or

(ii) any year constituting or comprised in the standard period of the principal company,

shall be treated for the purposes of this Act as if it or they were capital employed in, or as the case may be, profits or losses arising from, the business of the principal company.

(4) If the subsidiary company is a subsidiary of the principal company during part only of the chargeable accounting period, the excess or deficiency of profits of the subsidiary company for that part of that period shall be treated as increasing or as the case may be, decreasing the excess or deficiency of profits of the principal company for the whole period and shall not be deemed to be an excess or deficiency of profits of the subsidiary company.

In this sub section, the expressions "excess" and "deficiency" mean, in relation to profits, an excess or deficiency in relation to the standard profits of the subsidiary company or, as the case may be, the principal company.

(5) In any case to which sub section (3) or sub section (4) applies, such alteration, if any, of the periods which would otherwise be the chargeable accounting periods of the subsidiary company shall be made as the National Board of Revenue may direct.

(6) For the purposes of this section, a company shall be deemed to be a subsidiary of another company if and so long as not less than nine tenths of its ordinary share capital is owned by that other company, whether directly or through another company or other

companies, or partly directly and partly through another company or other companies.

(7) The amount of ordinary share capital of one company owned by a second company through another company or other companies, or partly directly and partly through another company or other companies shall be determined in accordance with the provisions of the Third Schedule.

(8) In this section and the Third Schedule references to owner ship shall be construed as references to beneficial ownership, and the expression "ordinary share capital", in relation to a company, means all the issued share capital (by whatever name called) of the company, other than capital the holders whereof have a right to a dividend at a fixed rate but have no other right to share in the profits of the company.

(9) The principal company shall be entitled to allocate to its subsidiary company or companies the respective proportionate shares of the excess profits tax payable by the whole group.

(10) The excess profits tax payable by virtue of this section by the principal company in respect of the profits of any subsidiary company shall, for the purposes of section 12, be deemed to have been paid by the subsidiary company and not by the principal company.

10. Artificial Transactions :-

(1) In computing profits for the purposes of this Act no deduction shall be made in respect of any transaction or operation of any nature if and so far as it appears that the transaction or operation has artificially reduced or would artificially reduce the profits.

(2) If the Excess Profits Tax Officer is satisfied that any person has entered into or carried out any transaction or operation by which the profits have been or would be artificially reduced, he may, with the previous approval of the Inspecting Assistant Commissioner, direct that such person shall pay, in addition to any excess profits tax for which he is or, but for such transaction or operation, would be liable, a penalty not exceeding the tax evaded or sought to be evaded.

10A. Transactions Designed To Avoid Or Reduce Liability To Excess Profits Tax :-

(1) Where the Excess Profits Tax Officer is of opinion that the main purpose for which any transaction or transactions was or were effected [whether before or after the passing of the Excess Profits

Tax (Second Amendment) Act, 1941] was the avoidance or reduction of liability to excess profits tax, he may, with the previous approval of the Inspecting Assistant Commissioner, make such adjustments as respects liability to excess profits tax as he considers appropriate so as to counteract the avoidance or reduction of liability to excess profits tax which would otherwise be effected by the transaction or transactions.

(2) Without prejudice to the generality of the powers conferred by sub section (1), the powers conferred thereby extend

(a) to the charging with excess profits tax of persons who but for the adjustments would not be chargeable with any tax or would not be chargeable to the same extent;

(b) to the charging of a greater amount of tax than would be chargeable but for the adjustments.

(3) Any person aggrieved by a decision of the Excess Profits Tax Officer under this section may appeal in the prescribed time and manner to the Appellate Tribunal.

11. Relief In Respect Of Double Excess Profits Taxation :-

(1) The Government may by notification in the official Gazette make provision for the granting of relief in cases where both excess profits tax under this Act and excess profits tax under any law in force in the United Kingdom, 11[* * *] or in any other part of His Majestys Dominions have been paid upon the profits of any business if it appears to the Government that the laws of the United Kingdom 12[* * *] or of that other part of His Majestys Dominions provide for corresponding relief in respect of excess profits tax charged on profits both in the United Kingdom 13[* * *] or in that part and in the taxable territories.

Provided that where under section 19 of the Finance (No. 2) Act, 1939, national defence contribution has been paid in the United Kingdom in lieu of excess profits tax, that portion of the national defence contribution so paid which is equal to the excess profits tax which would otherwise have been payable shall, for the purposes of this sub section, be deemed to be excess profits tax paid in the United Kingdom.

(2) If any person, who has paid excess profits tax under this Act for any chargeable accounting period in respect of profits arising outside Bangladesh in a 14[* * *] country the laws of which do not provide for any relief in respect of excess profits tax charged in

the taxable territories, proves that he has paid excess profits tax under the laws of the said 15[* * *] country in respect of the same profits, he shall be entitled to the deduction from the excess profits tax payable in the taxable territories of a sum equal to one half thereof or to one half of the excess profits tax payable in the said 16[* * *] country, whichever is the less.

11A. Agreement For Avoidance Of Double Taxation In Pakistan And India :- .

The Government may enter into an agreement with 17[India and Pakistan] for the avoidance of double taxation of profits under this Act and under the corresponding law in force in 18[India and Pakistan], and may, by notification in the official Gazette, make such provision as may be necessary for implementing the agreement.

12. Allowance Of Excess Profits Tax In Computing Income For Income Tax Purposes :-

(1) The amount of the excess profits tax payable in respect of a business for any chargeable accounting period diminished by any amount allowable by way of relief under the provisions of section 11, or section 11A shall, in computing for the purposes of income tax or super tax the profits and gains of that business, be allowed to be deducted as an expense incurred in that period.

(2) There shall also be so deducted the amount of any excess profits tax payable under any law in force in a 19[* * *] country outside the taxable territories on the profits of the business in respect of any chargeable accounting period to the extent to which such profits are liable to excess profits tax under this Act after diminishing such amount by any amount which is allowable by way of relief by repayment, set off or, otherwise under any law in the 20[* * *] country where the tax is payable providing for the granting of relief in that 21[* * *] country where excess profits tax has also been charged in the taxable territories:

Provided that where, under the provisions of this Act relating to deficiencies of profits or under any corresponding law in force in the said 22[* * *] country without the taxable territories, relief is given by way of repayment from excess profits tax chargeable for any chargeable accounting period previous to that in which the deficiency occurs, the amount of the deduction allowed under sub section (1) or sub section (2) shall not be altered, but the amount

repayable shall be taken into account in computing the profits and gains of the business for the purposes of income tax as if it were a profit of the business accruing in the previous year (as determined for that business for the purposes of the Income tax Act, 1922), in which the deficiency of profits occurs.

13. Issue Of Notice For Assessment :-

(1) The Excess Profits Tax Officer may, for the purposes of this Act, require any person whom he believes to be engaged in any business to which this Act applies, or to have been so engaged during any chargeable accounting period, or to be otherwise liable to pay excess profits tax, to furnish within such period, not being less than sixty days from the date of the service of the notice, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner

setting forth (along with such other particulars as may be provided for in the notice) with respect to any chargeable accounting period specified in the notice the profits of the business and the standard profits of the business as computed in accordance with the provisions of section 6 or the amount of deficiency available for relief under section 7:

Provided that the Excess Profits Tax Officer may, in his discretion, extend the date for the delivery of the return.

(2) The Excess Profits Tax Officer may serve on any person, upon whom a notice has been served under sub section (1), a notice requiring him on a date to be therein specified to produce, or cause to be produced, such accounts or document as the Excess Profits Tax Officer may require and may from time to time serve further notices in like manner requiring the production of such further accounts or documents or other evidence as he may require:

Provided that the Excess Profits Tax Officer shall not require the production of any accounts relating to a period prior to the "previous year" as determined under section 2 of the Income tax Act, 1922, for the purpose of the income tax assessment for the year ending on the 31st day of March, 1937.

14. Assessments :-

(1) The Excess Profits Tax Officer shall, by an order in writing after considering such evidence, if any, as he has required under section 13, assess to the best of his judgment the profits liable to excess profits tax and the amount of excess profits tax payable on the

basis of such assessment, or if there is a deficiency of profits, the amount of that deficiency and the amount of excess profits tax, if any, repayable and shall furnish a copy of such order to the person on whom the assessment has been made.

(2) Excess profits tax payable in respect of any chargeable accounting period shall be payable by the person carrying on the business in that period.

(3) Where two or more persons were carrying on the business jointly in the chargeable accounting period, the assessment shall be made upon them jointly and, in the case of a partnership, may be made in the partnership name.

(4) Where by virtue of the foregoing provisions an assessment could, but for his death, have been made on any person either solely or jointly with any other person or persons, the assessment may be made on his legal representative either solely or jointly with that other person or persons, as the case may be.

14A. Power To Make Provisional Assessments :-

(1) The Excess Profits Tax Officer, before proceeding to make an assessment (in this section referred to as the regular assessment) under section 14, may, at any time after the expiry of the period specified in the notice issued under sub section (1) of section 13 as that within which the return therein referred to is to be furnished, and whether the return has or has not been furnished, proceed to make in summary manner a provisional assessment of the amount by which the profits of the chargeable accounting period exceed the standard profits, and the amount of excess profits tax payable thereon.

(2) Before making such provisional assessment the Excess Profits Tax Officer shall give notice in the prescribed form to the person on whom assessment is to be made of his intention to do so, and shall with the notice forward a statement of the amount of the proposed assessment, and the said person shall be entitled to deliver to the Excess Profits Tax Officer at any time within fourteen days of receipt of the said notice a statement of his objections, if any, to the amount of the proposed assessment.

(3) On expiry of one month from the date of service of the notice referred to in sub section (2), or earlier if the assessee agrees to the proposed assessment, the Excess Profits Tax Officer may, after taking into account the objections, if any, made under sub section (2), make a provisional assessment, and shall furnish a copy of the order of assessment to the assessee:

Provided that assent to the amount of the assessment, or failure to make objection to it, shall in no way prejudice the assessee in relation to the regular assessment.

(4) In making any such provisional assessment the Excess Profits Tax Officer shall make allowances for any deficiencies of profits for previous chargeable accounting periods which are under the provisions of section 7 to be set off against the excess profits of the chargeable accounting period in respect of which the assessment is being made:

Provided that where such deficiencies of profits have not been determined under sub section (1) of section 14 the Excess Profits Tax Officer shall estimate the amount thereof to the best of his judgment.

(5) There shall be no right of appeal against a provisional assessment made under this section, and it shall, until a regular assessment is made in due course under section 14, determine the amount of excess profits tax due from the assessee.

(6) If, when a regular assessment is made in due course under section 14, the amount of excess profits tax payable thereunder is found to exceed that determined as payable by the provisional assessment, it shall be reduced by the amount determined as payable by the provisional assessment.

(7) If, when a regular assessment is made in due course under section 14, the amount of excess profits tax payable thereunder is found to be less than that determined as payable by the provisional assessment, any excess of tax paid as a result of the provisional assessment shall be refunded to the assessee together with interest at 5 per cent per annum calculated from the date of payment of such excess tax to the date of the order of refund, both days inclusive.

15. Profits Escaping Assessments :-

If, for any reason profits of any chargeable accounting period chargeable to excess profits tax have escaped assessment, or have been under assessed, or have been the subject of excessive relief, the Excess Profits Tax Officer may at any time serve on the person liable to such tax a notice containing all or any of the requirements which may be included in a notice under section 13, and may proceed to assess or reassess the amount of such profits liable to excess profits tax and the provisions of this Act shall, so far as may

be, apply as if the notice were a notice issued under that section: Provided that unless definite information has come into his possession the Excess Profits Tax Officer shall not initiate proceedings under this section without obtaining the previous approval of the Inspecting Assistant Commissioner.

16. Penalties :-

If the Excess Profits Tax Officer, the Appellate Assistant Commissioner or the Commissioner, in the course of any proceedings under this Act, is satisfied that any person has, without reasonable cause, failed to furnish the return required under sub section (1) of section 13, or to produce or cause to be produced the accounts or documents or other evidence required by the Excess Profits Tax Officer under sub section (2) of that section, or has, either in the said proceedings or in any earlier proceedings relating to an assessment in respect of the same chargeable accounting period, concealed particulars of the profits made by or capital employed in the business, or has deliberately furnished inaccurate particulars of such profits or capital, he may direct that such person shall pay by way of penalty, in addition to the amount of any excess profits tax payable, a sum not exceeding-

(a) where the person has failed to furnish the return required under sub section (1) of section 13, the amount of the excess profits tax payable; and

(b) in any other case, the amount of excess profits tax which would have been avoided if the return made had been accepted as correct:

Provided that the Excess Profits Tax Officer shall not impose any penalty under this section without the previous approval of the Inspecting Assistant Commissioner.

17. Appeals :-

(1) Any person aggrieved by a decision made in pursuance of section 8, or objecting to the amount of excess profits tax for which he is liable as assessed by the Excess Profits Tax Officer or denying his liability to be assessed under this Act, or objecting to any penalty imposed by the Excess Profits Tax Officer, or to the amount of any deficiency of profits as assessed by the Excess Profits Tax Officer, or to the amount allowed by the Excess Profits Tax Officer, by way of relief under any provision of this Act or to any refusal by the Excess Profits Tax Officer to grant relief may appeal to the

Appellate Assistant Commissioner:

Provided that no appeal shall lie against a determination of the amount of the profits of any standard period where those profits have been determined in accordance with the second proviso to rule 1 of the First Schedule except in respect of adjustments made under the provisions of that Schedule:

Provided further that no appeal shall lie under this section against any apportionment made by the Excess Profits Tax Officer under the proviso to sub section (5) of section 8, against any refusal to make modifications or against any modifications made by the Excess Profits Tax Officer under sub section (8) of section 8, against any decision of the Excess Profits Tax Officer under rule 11 of the First Schedule, or against any decision of the Board of Referees or the National Board of Revenue.

(2) An appeal shall ordinarily be presented within forty five days of receipt of the notice of demand relating to the assessment or penalty objected to, or in the case of an appeal against the assessment of a deficiency of profits, within forty five days of the receipt of the copy of the order determining the deficiency, or in the case of an appeal against the amount of a relief granted or a refusal to grant relief, within forty five days of the receipt of the intimation of the order granting or refusing to grant the relief, but the Appellate Assistant Commissioner may admit an appeal after the expiration of that period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(3) An appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(4) The Appellate Assistant Commissioner shall determine the appeal after giving both parties to the appeal an opportunity of being heard.

If the Appellate Assistant Commissioner is not satisfied that the assessment, decision or order which is the subject of appeal ought to be interfered with, he shall reject the appeal and the assessment, decision or order shall stand good.

If he is satisfied that the assessment, decision or order ought to be interfered with, he shall, subject to the provisions of this Act, pass such orders as he thinks fit and such orders may include an order enhancing the assessment or penalty:

Provided that an order enhancing an assessment or penalty shall not be made unless the person affected thereby has been given an opportunity of showing cause against the enhancement.

18. Appeal To Commissioner Against Appellate Assistant Commissioners Orders Imposing Penalties Or Enhancing Assessments Or Penalties :-

(1) Any person objecting to an order passed by an Appellate Assistant Commissioner imposing on him a penalty under section 16 or enhancing his assessment or enhancing a penalty under section 17 may appeal to the Commissioner within thirty days of the date on which he was served with notice of such order.

(2) In disposing of the appeal the Commissioner may, after giving the appellant an opportunity of being heard, pass such orders thereon as he thinks fit.

(3) On the coming into operation of Part II of the Indian Income-tax (Amendment) Act, 1939, this section shall cease to have effect.

19. Power Of Revision :-

(1) The Commissioner may of his own motion call for the record of any proceeding under this Act which has been taken by any Excess Profits Tax Officer or Appellate Assistant Commissioner subordinate to him, and on receipt of the record may make such enquiry, or cause such enquiry to be made, and, subject to the provisions of this Act, may pass such orders thereon (including an order enhancing an assessment) as he thinks fit:

Provided that he shall not pass any order prejudicial to a person to whose business this Act applies without hearing him, or giving him a reasonable opportunity of being heard.

(2) On the coming into operation of Part II of the Indian Income-tax (Amendment) Act, 1939, sub-section (1) shall cease to have effect, but thereafter any Excess Profits Tax Officer or any person in respect of whose business an order under section 14 has been passed who objects to an order passed by an Appellate Assistant Commissioner under section 16 or section 17 may, within the prescribed time and in the prescribed manner, appeal against such order to the Appellate Tribunal constituted under the Income tax Act, 1922 .

(3) The Appellate Tribunal shall determine the appeal after giving both parties to the appeal an opportunity of being heard.

If the Appellate Tribunal is not satisfied that the assessment, decision or order which is the subject of appeal ought to be interfered with, it shall reject the appeal and the assessment, decision or order shall stand good.

If it is satisfied that the assessment, decision or order ought to be interfered with, it shall, subject to the provisions of this Act, pass such orders as it thinks fit, and such orders may include an order enhancing the assessment or penalty:

Provided that an order enhancing an assessment or penalty shall not be made unless the person affected thereby has been given an opportunity of showing cause against the enhancement.

20. Rectification Of Mistakes :-

The Commissioner may, at any time within four years from the date of any order passed whether by himself or by any Appellate Assistant Commissioner or Excess Profits Tax Officer under this Act, rectify any mistake in any evidence recorded during assessment or appellate proceedings, or any mistake apparent from the record and shall within the like period rectify any mistake apparent from the record which has been brought to his notice by a person to whose business this Act applies:

Provided that no such rectification shall be made having the effect of enhancing the liability of any person unless that person has been given a reasonable opportunity of being heard.

21. Application Of Provisions Of Act X1 Of 1922 :-

The provisions of sections 4A, 4B, 10, 13, 24B, 29, 36 to 44C (inclusive), 45 to 48 (inclusive), 49E, 49F, 50, 54, 61 to 63 (inclusive), 65 to 67A (inclusive) of the Income tax Act, 1922, shall apply with such modifications, if any, as may be prescribed as if the said provisions were provisions of this Act and referred to excess profits tax instead of to income tax, and every officer exercising powers under the said provisions in regard to income tax may exercise the like powers under this Act in regard to excess profits tax in respect of cases assigned to him under sub section (3) of section 3 as he exercises in relation to income tax under the said Act:

Provided that references in the said provisions to the assessee shall be construed as references to a person to whose business this Act applies.

21A. Application Of Income Tax Act Before 15Th Day Of August 1947, With Certain Modifications :- .

Any reference in this Act to the Income tax Act, 1922, shall, in relation to the profits of any chargeable accounting period and to

the state of affairs and all the circumstances necessary to determine the charge to excess profits tax, mean the said Act as in force in the relevant period:

Provided that whatever be the relevant period, references to section 46 of the said Act shall be deemed to include references to sub sections (8), (9) and (10) of that section.

22. Income Tax Papers To Be Available For The Purposes Of This Act :-

(1) Notwithstanding anything contained in the Income tax Act, 1922, all information contained in any statement or return made or furnished under the provisions of that Act or obtained or collected for the purposes of that Act, may be used for the purposes of this Act.

(2) All information contained in any statement or return made or furnished under the provisions of this Act or obtained or collected for the purposes of this Act may be used for the purposes of the Income tax Act, 1922.

23. Failure To Deliver Returns Or Statements :-

If any person fails, without reasonable cause or excuse, to furnish in due time any return or statement, or to produce or cause to be produced, any accounts or documents required to be produced under section 13, he shall on conviction by a Magistrate be punishable with fine which may extend to five hundred Taka, and with a further fine which may extend to fifty Taka for every day during which the default continues.

24. False Statement And Declaration :-

If a person makes in any return required under section 13, any statement which is false, and which he either knows or believes to be false or does not believe to be true, he shall be punishable on conviction by a Magistrate with simple imprisonment which may extend to six months, or with fine which may extend to one thousand Taka, or with both.

25. Institution Of Proceedings And Composition Of Offences :-

(1) A person shall not be proceeded against for an offence under section 23 or section 24 except at the instance of the Inspecting Assistant Commissioner.

(2) No prosecution for an offence punishable under section 23 or section 24 or under the 24[Penal Code] shall be instituted in respect of the same facts as those in respect of which a penalty has been imposed under this Act.

(3) The Inspecting Assistant Commissioner may, either before or after the institution of proceedings, compound any offence punishable under section 23 or section 24.

26. Power Of National Board Of Revenue To Grant Relief In Special Cases :-

(1) If on an application made to it through the Excess Profits Tax Officer the National Board of Revenue is satisfied in the case of any business that special circumstances exist which render it inequitable that the standard profits of the business in relation to any chargeable accounting period should be computed in accordance with the provisions of sub section (1) of section 6, and that no relief or insufficient relief has been granted under the provisions of sub section (3) of that section, the National Board of Revenue may direct that the standard profits of the business shall be computed to be such greater amount as the National Board of Revenue thinks just:

Provided that such amount shall not exceed the statutory percentage of the average amount of the capital employed in the business unless the National Board of Revenue is satisfied that owing to some specific cause peculiar to the business it is just that a greater amount should be allowed and that the relief, if any, afforded by the Board of Referees under sub section (3) of section 6 is inadequate.

Provided further that a determination on an application under this sub section -

(a) shall have effect with respect to all subsequent chargeable accounting periods;

(b) shall exclude any further application under this sub-section.]

(2) Without prejudice to the generality of the provisions of sub section (1) the National Board of Revenue shall, in considering the making of a direction under that sub section, have regard to the following circumstances, namely:

(a) that the capital employed in a business commenced on or after

the 1st day of July, 1938, is so small in relation to the volume of the activities of the business that to compute the standard profits in accordance with the provisions of section 6 would be inequitable, taking into account the normal profits made in similar businesses;

(b) that owing to the nature of the business heavy expenditure by way of preliminary expenses or expenses in connection with experimental or development work has been incurred in accounting periods closely preceding the chargeable accounting period and that during the chargeable accounting period such expenditure would normally fall to be written off wholly or partly in the books of the person chargeable to excess profits tax;

(c) that the business is of a pioneer nature, that is to say, is concerned with an industrial process or a form of manufacture or production not undertaken in the taxable territories before the 1st day of April, 1932, and has not been in existence long enough to have paid income tax for the previous year as determined for the purpose of the income tax assessment for the year beginning on the 1st day of April, 1937.

(3) If on an application made to it through the Excess Profits Tax Officer the National Board of Revenue is satisfied that the computation in accordance with the provisions of Schedule I of the profits of a business during any chargeable accounting period would be inequitable, owing to any of the following circumstances, namely:-

(a) any postponement or suspension, as a consequence of the present hostilities, of renewals or repairs, or

(b) the provision of buildings, plant or machinery which will not be required for the purposes of the business after the termination of the present hostilities, or

(c) difficulties in bringing into the taxable territories income arising outside the taxable territories where the 25[* * *] country in which the income accrued prohibits or restricts by its laws the remittance of money to the taxable territories, and loss in the remittance to the taxable territories of such income because of fluctuations in the rate of exchange between that 26[* * *] country and the taxable territories; or

(d) in the case of any business which includes the winning of any mineral (including mineral oil) the winning of which is of exceptional importance for the prosecution of the present war, an increase in the output of the mineral which was essential in the national interest and which has had the effect of shortening the period during which but for such increased wartime output the

source of the mineral might have been expected to be exhausted; the National Board of Revenue may direct that such allowances shall be made in computing the profits of the business during that chargeable accounting period as the National Board of Revenue thinks just:

Provided that in making such direction the National Board of Revenue may impose such conditions as it deems appropriate.

(4) An application to the National Board of Revenue under this section shall be presented to the Excess Profits Tax Officer before the expiry of the period specified in the notice issued under sub section (1) of section 13 or of the extended period allowed by the Excess Profits Tax Officer under the proviso to that subsection, but in the case of an application under sub section (1) of this section, if the person carrying on the business has made or is making an application under sub section (3) of section 6 the application shall be presented to the Excess Profits Tax Officer before the expiry of forty five days from the date on which the order of the Board of Referees disposing of the application under sub section (3) of section 6 is communicated to the person who has made that application.

Further powers of National Board of Revenue to grant certain relief 26A. (1) If on an application made to it through the Excess Profits Tax Officer, the National Board of Revenue is satisfied that a person who in a chargeable accounting period ending on the 31st day of March 1946, carried on a business the profits of which for any chargeable accounting period are charged with excess profits tax-

(i) incurred during the period commencing on the 1st day of April 1946 and ending on the 31st day of December 1947, in connection with that business,

(a) expenditure on the removal of works constructed for protection against enemy attack;

(b) where under the orders of a competent authority the business was wholly or partly removed during the war, expenditure on again removing the business or part thereof;

(c) where any physical assets held for the purposes of the business were altered to adapt them to war condition expenditure on re adapting them to normal requirements;

(d) expenditure in consequence of the termination of any contract for the supply of goods, materials or services, or the lease of buildings or machinery to him, where that contract is terminated by reason of the termination of a contract for the provision by him of goods, materials or services for the purposes of the war; or

(ii) incurred during the period commencing on the 1st day of April 1946, and ending on the 31st day of December 1947, a loss on the sale of trading stock held on the 31st day of March 1946 for the purposes of the business; or

(iii) incurred in any accounting period ending on or before the 31st day of March 1946 in connection with that business any expenditure referred to in the sub-clauses of clause (i) which, except under the provisions of this sub section, is not allowable, either wholly or partly, in computing the profits of such accounting period,

the National Board of Revenue may direct that such allowance as it thinks just shall be made in computing the profits of the business during the chargeable accounting period ending on the 31st day of March 1946, and effect shall be given to such direction by repayment or otherwise, as the case may require:

Provided that in giving any such direction, the National Board of Revenue may impose such conditions as it considers appropriate:

Provided further that where the applicant satisfies the National Board of Revenue that it was not possible to complete any work referred to in sub clauses (a), (b) and (c) of clause (i) within the period specified in that clause, the National Board of Revenue may extend the said period to such date as it considers reasonable:

Provided further that, where any change has taken place in the persons carrying on the business, the persons carrying it on after the change shall have the same right to make an application under this sub section in respect of any expenditure referred to in sub clauses (b) and (c) of clause (i) as the persons previously carrying on the business would have had if there had been no such change.

(2) Where an accounting period included, but did not end on the 31st day of March 1946, all expenditure referred to in the sub clauses of clause (i) of sub section (1) which would, apart from the provisions of this sub section and rule 11 of Schedule 1, be allowable as a deduction in computing the profits of the said accounting period, shall be treated for the purposes of sub -section (1) as if it were incurred after that day, and if an application is made under this section, no deduction from, or in computing, the profits of any accounting period or chargeable accounting period

shall be allowed in respect of such expenditure otherwise than under sub section (1).

(3) Where a change takes place in the persons carrying on a business, or a person carrying on a business, being a body corporate, becomes or ceases to be a subsidiary company or principal company within the meaning of sub section (6) of section 9, and where except for the happening of that event relief would be allowable under this section, the National Board of Revenue may, if it thinks fit, allow such relief under this section as it considers just, having regard to the extent to which the persons directly or indirectly interested in the business or body corporate, as the case may be, before the change remain interested therein after the change.

27. Power To Make Rules :-

(1) The National Board of Revenue may, subject to the control of the Government, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may-

(a) prescribe the procedure to be followed on appeals, applications for rectification of mistakes, and applications for refunds;

(b) provide for the adaptation to excess profits tax of any of the provisions of the Income tax Act, 1922, which are made applicable to excess profits tax by section 21; or of any rules made under any such provision;

(c) provide in regard to companies whose business consists wholly or mainly in the dealing in or holding of investments, for the granting of exemption or relief from liability to excess profits tax of profits derived from investments in other companies the profits of which have been subjected to excess profits tax in the taxable territories;

(d) provide for any matter which by or under this Act is to be prescribed.

(3) The power to make rules conferred by this section shall be exercised in like manner as the power to make rules under section 59 of the Income tax Act, 1922.

1 Throughout this Act the words "Bangladesh" and "Government" were substituted for the words "Pakistan" and "Central Government" by the Bangladesh Taxation Laws (Adaptation) Order, 1972 (P. O. No. 62 of 1972)

2 Throughout this Act the words "National Board of Revenue" were substituted for the words "Central Board of Revenue" by Section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

3 Throughout this Act the word "Taka" was substituted for the word "rupees" by Section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

4 The words "or of a law of an Acceding State or non Acceding State" were omitted by the Bangladesh Taxation Laws (Adaptation) Order, 1972 (P. O. No. 62 of 1972)

5 Clause 14A was inserted by the Bangladesh Taxation Laws (Adaptation) Order, 1972 (P.O. No. 62 of 1972)

6 The number and letters "14AA" was substituted for the number and letter "14A" by Section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

7 The proviso was omitted by the Bangladesh Taxation Laws (Adaptation) Order, 1972 (P.O. No. 62 of 1972)

8 Sub-section 5 was omitted by Section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

9 Section 7A was inserted by section 4 of the Excess Profits, Tax (Second Amendment) Act, 1941 (Act No. XXIV of 1941)

10 Section 10A was inserted by section 6 of the Excess Profits, Tax (Second Amendment) Act, 1941 (Act No. XXIV of 1941)

11 The words and comma "in any Acceding State or non Acceding State," were omitted by the Bangladesh Taxation Laws (Adaptation) Order, 1972 (P.O. No. 62 of 1972)

12 The words "or of that State" were omitted by the Bangladesh Taxation Laws (Adaptation) Order, 1972 (P.O. No. 62 of 1972)

13 The words "or in that State" were omitted by the Bangladesh Taxation Laws (Adaptation) Order, 1972 (P.O. No. 62 of 1972)

14 The words "State or" were omitted by Section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

15 The words "State or" were omitted by Section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act,

1973 (Act No. VIII of 1973)

16 The words "State or" were omitted by Section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

17 The words "India and Pakistan" were substituted for the word "India" by Section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

18 The words "India and Pakistan" were substituted for the word "India" by Section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

19 The words "State or" were omitted by Section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

20 The words "State or" were omitted by Section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

21 The words "State or" were omitted by Section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

22 The words "State or" were omitted by Section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

23 Section 14A was inserted by section 3 of the Excess Profits, Tax Ordinance, 1943 (Ordinance No. XVI of 1943)

24 The words "Penal Code" were substituted for the words "Pakistan Penal Code" by Section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

25 The words "State or" were omitted by Section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

26 The words "State or" were omitted by Section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)