

Purchasing Gold Jewellery In Exchange For A Gold Bar

Darulifta Ahlesunnat

(Dawateislami)

Question

What do the scholars of Islam say regarding the following matter: we have started a business in the gold industry, in which gold is purchased in the form of a bar, and then given to various skilled workers who fashion it into jewellery. This is then sold to shopkeepers. These workers make jewellery by adding pearls and other stones to the gold. We take this and sell them to shopkeepers.

The method of doing this is, they weigh the jewellery and give us gold in return which weighs slightly less in amount. For example, the prepared jewellery with pearls weigh 24 grams, of which around 21 grams is considered gold, 1 gram considered impurities and 2 grams of pearls. The shopkeeper makes an agreement with us that he will give us a 23-gram gold bar in exchange for all the jewellery. Also, sometimes the payment is made promptly, and at times, it is deferred. Meaning, the shopkeeper takes the jewellery from us, but gives the bar after a month. What is the legal ruling of shari'ah pertaining to trading in this manner?

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الْجَوَابُ بِعَوْنِ الْمَلِكِ الْوَهَّابِ اللَّهُمَّ هِدَايَةَ الْحَقِّ وَالصَّوَابِ

When gold is sold in exchange for gold, silver is sold in exchange for silver, or they are sold in exchange for each other, such a trade is referred to as bay' sarf. The ruling regarding this is: when both items are of the same category, such as gold in lieu of gold, then it is necessary that both be equal in weight and that the buyer and seller take possession of each other's things within the same sitting, before separating from one another. Otherwise, it will be considered impermissible, haram and usurious.

However, if something has been added to one item of gold, such as the pearls that are added to jewellery, there will be no need for them to be equal in weight. In fact, it is necessary for there to be more gold given in exchange for the jewellery which contains pearls, so that the gold is equal to each other, and the excess gold is given in exchange for the additional thing, i.e. the pearls. Nevertheless, even in such a case, it is necessary for both parties to take possession of the items in the same sitting, and any loan will be haram and usurious.

In the above-mentioned scenario, the gold which is given in exchange for the jewellery is more than the gold present in the jewellery. Therefore, when this transaction takes place in a way that both buyer and seller take possession of the gold and the jewellery in the same sitting that the deal takes place; this is permissible. However, if there is a loan involved, just as it has been mentioned above that the gold is sometimes not given in lieu of the jewellery at the time of the transaction but instead given at a later date; then this transaction based upon a loan will be impermissible, haram and usury. Therefore, it is not permitted to utilise loans for this.

Note: It is important to keep in mind that there is a difference between the rulings of impurities and pearls. Impurities are mixed with the gold and are of a smaller amount, so it is not considered a separate thing, and regarded as part of the gold itself. Whereas, pearls do not fall under the ruling of gold and are attached to it. They are a separate thing due to being from a different category. Therefore, what has been mentioned in the question regarding the 24 grams of jewellery containing 3 grams of impurities and pearls; if 1 gram of this is impurities, it will be said the gold is 22 grams. In such a case, the 23 grams of gold on one hand will be more than these 22 grams of gold, and this sale will be valid. However, if the gold in the jewellery contains 2 grams of impurities, this gold will be said to weigh 23 grams, and it will be necessary for the gold being given in exchange for it to be more than 23 grams. If it equals 23 grams or less than that, this transaction will be deemed impermissible and sinful.

It is mentioned in a hadith:

قال رسول الله صلى الله عليه وسلم: الذهب بالذهب والفضة بالفضة والبر بالبر والشعير بالشعير والتَّمْر بالتَّمْر والملح بالملح مثلاً بمثل يداً بيد
، فمن زاد أو استزاد فقد أربى، الأخذ والمُعطي فيه سواءٌ

Translation: Gold in exchange for gold, silver in exchange for silver, wheat in exchange for wheat, barley in exchange for barley, dates in exchange for dates, and salt in exchange for salt, should be sold like for like and at once. Thus, he who gave extra or took extra engaged in usury. The giver and taker are both equal in this.¹

The following is mentioned in *Tanwīr al-Abṣār* and *Durr al-Mukhtār* regarding the definition of *bayʿ ṣarf*, and the necessity of the weight being equivalent when exchanging things of the same type, and of taking possession of the item in the same gathering before separating from one another, be it of the same type or another:²

(هو بيع الثمن بالثمن) أي ما خلق للثمنية (جنساً بجنس أو بغير جنس، ويشترط التماثل) أي: التساوي وزناً (والتقابض) بالبر اجم (قبل الافتراق) ان اتحد جنساً (لما ترفى الربا، والا) بان لم يتجانسا (شروط التقابض) لحرمة النساء، ملخصاً

The Hanafi jurist, Mufti Amjad ‘Alī A‘zamī رَحْمَةُ اللهِ عَلَيْهِ explains:

The meaning of *ṣarf* is to sell *thaman* (monetary unit) for *thaman*. This sometimes involves the exchanging of things from the same type, such as purchasing silver or silver coins with (silver) rupees, or buying gold with gold coins. Sometimes, it takes place with items belonging to different types, such as purchasing gold or gold coins with silver coins.

(Next ruling) If silver was sold for silver, or gold for gold, i.e., both items are of the same category, then the condition is that they must both be equal in weight and they must be taken possession of in the same sitting. If both of them did not take possession of these items; rather one of them left his item there after making the agreement and then took the other’s item, this will not be sufficient. Trading in this manner will be impermissible. In fact, it is considered usury.

¹ *Ṣaḥīḥ Muslim*, vol. 2, p. 25, published in Karachi

² *Durr al-Mukhtār ma’a Radd al-Muḥtār*, vol. 7, pp. 552,554, published in Quetta

The meaning of being equal is that both items are equal according to each party. If the goods belong to different categories, there is no harm in one being greater than the other, but taking possession is still necessary. If the gathering changes before the items are exchanged, the agreement will be *Batil* (null and void). The meaning of the gathering changing here is that they separate from one another. This can either be by each party departing in different directions, or by one of them leaving and the other remaining there. If either of these situations are not found, the gathering has not changed, even if it is lengthy.³

When trading gold for gold and one item includes something from a different category, it is necessary for the pure gold to weigh more than the other gold item. This is so that the gold from both sides equals each other and any extra gold is given in lieu of the other things (that are added to the gold). Hence, it is mentioned in *Hidayah*:

لوتبايعافضةبفضة اوزهبابذهب واحدهما اقل ومع اقلهما شيء آخر --- جاز البيع، بلخصاً⁴

Mufti Amjad ‘Alī A‘zamī رَحْمَةُ اللَّهِ عَلَيْهِ says:

If gold was traded for gold, or silver for silver, and one of them weighs more than the other, but the one which weighs less contains something else of value, the trade will be valid.”⁵ Impurities fall under the ruling of gold and silver, and its weight is considered part of the gold and silver itself. The great mufti also said:

If gold or silver contains impurities, but the gold or silver is dominant, it will be considered as part of the gold or silver. This is the case with silver and gold coins; which are not pure silver and gold and contain impurities. However, these impurities are relatively few, so they will be considered gold and silver. If they are sold for something of the same category, it is necessary for them to be equal in weight, and their weight will also be considered when taking out a loan. Whether the impurity is added to it, as is the case when silver and gold coins are cast, or whether it is not added, and it was naturally like that when extracted from the mine; their ruling is the same.⁶

وَاللَّهُ أَعْلَمُ عَزَّوَجَلَّ وَرَسُولُهُ أَعْلَمُ صَلَّى اللَّهُ تَعَالَى عَلَيْهِ وَآلِهِ وَسَلَّمَ

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³ Bahār-i-Sharī‘at, vol. 2, part 11, pp. 820,822, Maktaba al-Madina, Karachi

⁴ Hidāyah ma‘a Faṭḥ al-Qadīr, vol. 7, p. 141, published in Quetta

⁵ Bahār-i-Sharī‘at, vol. 2, part 11, p. 827, Maktaba al-Madina, Karachi

⁶ Bahār-i-Sharī‘at, vol. 2, part 11, p. 828, Maktaba al-Madina, Karachi