

Can A Company Outsource A Client's Order To Another Company?

Ref: IEC.0067

Date:12-09-23

What do the Islamic scholars say regarding the following: we are three friends. We have jointly made a software company. Sometimes it happens that instead of making a project ourselves we outsource a project to another company and pay them because we have too many other projects to complete. Are we allowed to do so from Shriah perspective?

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

الجواب بعون الملك الوهاب اللهم هداية الحق والصواب

In the asked scenario, if the customer has not stipulated that your company itself will develop the project, it will be permissible for you to outsource it to another company on a payment. However, if the customer stipulates during the agreement that your company itself will execute the project, you are not permitted to outsource it to another party.

It has been mentioned in the book Tanveerul Absar wa Durrul Mukhtar:

” (واذا شرط عمله بنفسه) بان يقول له: اعمل بنفسك او بيدك (لا يستعمل غيره... وان اطلق

كان له) اى: للاجيران يستاجر غيره“

Translation: If an employer stipulates employee's execution of the job with the following words, “You yourself will execute the job or (he adds) with your hands”, employee is not allowed to delegate the job to someone else and if the employer does not stipulate employee's working, the employee is permitted to delegate it to someone else.

(Tanveerul Absar Ma Durrul Mukhtar, Vol 06, Page 18, Beirut)

It is mentioned in the book Kanz ud Dqaiq:

”ولا يستعمل غيره ان شرط عمله بنفسه وان اطلق فله ان يستاجر غيره“

Translation: if (a costumer) stipulates execution of the job by the employee (Ajeer), the employee will be not permitted to delegate it to someone else and if it is not stipulated, he will be permitted to hire someone else and get it done by him.

(Kanz ud Dqaiq Ma Bahrur Raiq, Vol 07, Page 303, Beirut)

Mufti Amjad Ali Azami رحمه الله تعالى عليه writes in Bahar e Shariat:

”جس سے کام کرانا ہے اگر اُس سے یہ شرط کر لی ہے کہ تم کو خود کرنا ہو گا یا کہہ دیا کہ تم اپنے ہاتھ سے کرنا، اس صورت میں خود اُسی کو کرنا ضروری ہے۔ اپنے شاگرد یا کسی دوسرے شخص سے کام کرانا، جائز نہیں۔۔۔ اور اگر یہ شرط نہیں ہے کہ وہ خود اپنے ہاتھ سے کام کرے گا دوسرے سے بھی کر سکتا ہے، اپنے شاگرد سے کرائے یا نوکر سے کرائے یا دوسرے سے اجرت پر کرائے، سب صورتیں جائز ہیں۔“

Translation: If an employer specifies to the one who he wants to hire for a job that he will execute the job personally or he with his own hands will execute the job, it will be incumbent upon the employee to execute the job himself. And it will be impermissible for the employee to delegate the job to his apprentice or someone else. However, if such a condition was not specified, then all scenarios are permitted: he may delegate the task to someone else, his apprentice, his worker, or hire another individual for the job.

(Bahar e Shariat, Vol 03, Page 119, Maktabah Tul Madinah)

والله اعلم عز وجل ورسوله اعلم صلى الله تعالى عليه وآله وسلم

Written by

Abu Muhammad Mufti Ali Asghar Attari Madani

Safar ul Muzaffar 25, 1445 Hijri/ September 12, 2023

Translated by Maulana Abdul wajid madani