

Ruling On Investing With A Condition Of Two Riyals Profit Per Piece

Ref: IEC.0005

Date:11-05-2023

What do the Islamic scholars say about the following issue: Zaid owns a garment factory with an investment of approximately 10 million Riyals. Zaid takes 200,000 Riyals as an investment from an investor named Bakr. It is agreed between them that Bakr will receive a profit of two Riyals per okay piece produced in the factory, while no profit will be given on rejected pieces. However, nothing is decided regarding loss. It is also decided that as long as this investment remains with Zaid, the deal will continue in the same manner. After a year or two, whenever the investor demands the return of his amount, he will be paid the full amount of 200,000 Riyals, and the agreed profit will cease from that time onward. Is making such a deal permissible according to Islamic law? If not, can you provide a permissible solution?

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الجواب بعون الملك الوهاب اللهم هداية الحق والصواب

The contract mentioned in the question is not a partnership rather it is an interest (riba) involving agreement. Although Bakr has given money to Zaid as an investment, in reality it is a loan since the return of the full amount is agreed upon. Moreover, as due to this loan, Zaid is paying Bakr a profit

of two Riyals per piece, it becomes a profit on the condition of loan and that is interest and interest is haram and a grave sin in Islam.

Therefore, it is obligatory for both parties to immediately terminate this interest-based agreement and repent to Allah. The profit that Bakr has received so far is not halal for him. He is required to donate it to such a person who is poor from Shariah point of view (الفقير الشرعي) without the intention of receiving reward, though it is better if he returns it to Zaid.

While defining a loan, Allama Alauddin Haskafi رحمه الله عليه writes:

”شرعاً: ما تعطيه من مثلى لتقاضاه“

Translation: In Shriah, a loan is that which is given of a similar kind with the intent of demanding a similar in return.

(Al-Durr ul-Mukhtar, Volume 5,
Page 161, Published in Beirut)

It is stated in Fath-ul-Qadeer:

”فعساه لا يخرج الا قدر المسمى فيكون اشتراط جميع الربح لاحدهما على ذلك التقدير واشترطه لاحدهما يخرج العقد من الشركة الى قرض او بضاعة“

Translation: It is possible that the entire profit specified for one party is exactly equal to the total earned profit; in such a case, it will be as if the entire profit has been stipulated for one partner and it will make the contract exit the realm of partnership and turn into a loan or Badhaah (بضاعة) agreement.

(Fath-ul-Qadeer, Volume 6,
Page 183, Dar al-Fikr)

Profit on the condition of a loan is interest. As it has been mentioned in a Hadith:

”كل قرض جر منفعة فهو وجه من وجوه الربا“

Translation: Every loan that brings a benefit is a form of interest.

(Al-Sunan-ul-Kubra by Al-Bayhaqi,
Volume 5, Page 573, Beirut)

Regarding interest, it is narrated in Sahih Muslim from Hazrat Jabir (رضى الله عنه):

”لعن رسول الله صلى الله عليه وسلم آكل الربا، ومؤكله، وكاتبه، وشاهديه“، وقال: ”هم سواء“

Translation: The Messenger of Allah (صلى الله عليه وسلم) cursed the one who consumes interest, the one who pays it, the one who writes it down, and its witnesses. And he said: ”They are all equal.“

(Sahih Muslim, Volume 3, Page 1219,
Published in Beirut)

A question was asked from Ala Hazrat, Imam-e-Ahl-e-Sunnat, Mawlana Shah Imam Ahmad Raza Khan رحمه الله عليه, which included the following words:

”اس وقت زید سے بکرنے کہا کہ اگر اس وقت پندرہ سو روپے دو تو میں لے لوں اور تجارت میں لگا دوں اور چار سال میں اگر روپیہ ادا ہوا تو منافع لوں گا“

Translation: At that time, Bakr told Zaid that if you give me fifteen hundred rupees now, I will take it and invest it in a business, and if you return the money within four years, I will take a profit.

In response, he رحمۃ اللہ علیہ wrote:

”صورت مستفسرہ میں وہ منافع قطعی سود اور حرام ہیں۔ حدیث میں ہے: ”کل قرض جرم منفعة فهو ربا“
قرض سے جو نفع حاصل کیا جائے وہ سود ہے۔“

Translation: In the asked case, the profit is unequivocally interest and is haram. The Hadith states: Every loan that yields a benefit is interest.

(Fatawa Razaviyyah, Volume 19, Page 561,
Raza Foundation, Lahore)

In Fatawa Razaviyyah, Imam-e-Ahl-e-Sunnat Ala Hazrat رحمۃ اللہ علیہ, while discussing clearing oneself from interest and other unlawful wealths, states:

”جو مال رشوت یا تغنی یا چوری سے حاصل کیا، اس پر فرض ہے کہ جس جس سے لیا اُن پر واپس کر دے، وہ نہ رہے ہوں اُن کے ورثہ کو دے، پتہ نہ چلے تو فقیروں پر تصدق کرے، خرید و فروخت کسی کام میں اُس مال کا لگانا حرام قطعی ہے۔ بغیر صورت مذکورہ کے کوئی طریقہ اس کے وبال سے سبکدوشی کا نہیں۔ یہی حکم سود و غیرہ عقودِ فاسدہ کا ہے فرق صرف اتنا ہے کہ یہاں جس سے لیا بالخصوص انہیں واپس کرنا فرض نہیں بلکہ اسے اختیار ہے کہ اسے واپس دے خواہ ابتداء تصدق کر دے۔۔۔ ہاں جس سے لیا نہیں یا ان کے ورثہ کو دینا یہاں بھی اولیٰ ہے۔“

Translation: Any wealth obtained through bribery, singing, or theft must be returned to those from whom it was taken. If they are not alive, it must be given to their heirs. If their heirs are unknown, it must be given in charity to the poor. Using such wealth for buying, selling or any other transaction is absolutely haram. Other than the mentioned process, there is no way to be absolved of its burden. The same ruling applies to interest and other invalid contracts. The only difference is

that in this case, it is not obligatory to specifically return it to the person from whom it was taken because he has following two options. He may return to the one from whom he has received or he may give in charity. However, returning it to the original person or to his heirs is still preferred.

(Fatawa Razaviyyah, Volume 23, Page 551,
Raza Foundation, Lahore)

A permissible way for the mentioned investment

If they wish to make a new investment, there are several permissible methods. One such method is that Bakr does not give Zaid cash but instead provides the material Zaid needs for his work, such as thread, etc. Bakr purchases goods worth 200,000 Riyals from the market and takes possession of them. He then sells these goods to Zaid on credit for a fixed profit, for instance, 250,000 Riyals, for a specific period, such as six months. Now, these goods will become Zaid's property, and any profit earned will solely belong to Zaid. However, Zaid must pay the amount, such as 250,000 Riyals, to Bakr within the agreed period. When Bakr receives this amount, if he wishes to reinvest and earn more profit, he may follow the same procedure again.

This method, where goods are sold by disclosing the original cost along with profit, is referred to in Islamic terminology as "Murabaha". If the full amount has not yet been received, and only a portion has been collected, and Bakr wishes to reinvest this collected amount in the business, he can do so using the same method.

If Bakr does not wish to personally handle the purchase and sale transactions each time, there is a solution for this as well. He can appoint a trusted person as his agent, who will, according to Bakr's instructions, purchase the goods each time, take possession of them, and sell them to Zaid as per the method described above.

Defining "Murabaha," Imam Abu al-Hasan Ali bin Abu Bakr رحمۃ اللہ علیہ, author of "Al-Hidaya," states:

“المرابحة نقل ماملکہ بالعقد الأول بالثمن الأول مع زيادة ربح”

Translation: Murabaha is transferring ownership of what was acquired in the first contract at its initial price along with an additional profit.

(Al-Hidaya, Volume 3, Page 56, Published Beirut)

It is important to note that after purchasing goods from the market, taking possession of the goods before selling them further is necessary. As stated in "Bahar-e-Shariat":

“بیع اگر منتقلات کی قسم سے ہے تو بائع کا اُس پر قبضہ ہونا ضرور ہے، قبل قبضہ کے چیز بیچ دی بیع ناجائز ہے۔“

Translation: If the sold item is of a movable type, it is necessary for the seller to have possession of it. Selling the item before possession is not valid.

(Bahar-e-Shariat, Volume 2, Page 625,
Maktaba-tul-Madina, Karachi)

If a transaction is on credit, it is also necessary to determine the time for payment. As mentioned in "Bahar-e-Shariat":

“بیع میں کبھی ثمن حال ہوتا ہے یعنی فوراً دینا اور کبھی مؤجل یعنی اُس کی ادا کے لیے کوئی میعاد معین ذکر کر دی

جائے، کیونکہ میعاد معین نہ ہوگی تو جھگڑا ہوگا۔“

Translation: In a sale, sometimes the price is immediate, meaning it is paid promptly, and sometimes it is deferred, meaning a specific time for payment is stipulated, as the absence of a fixed period can lead to disputes.

(Bahar-e-Shariat, Volume 2, Page 626,
Maktaba-tul-Madina, Karachi)

Regarding appointing an agent, "Bahar-e-Shariat" states:

”وکالت کے یہ معنی ہیں کہ جو تصرف خود کرتا، اُس میں دوسرے کو اپنے قائم مقام کر دینا۔“

Translation: Agency means appointing someone else as your substitute for an action that you would perform yourself.

(Bahar-e-Shariat, Volume 2, Page 974,
Maktaba-tul-Madina, Karachi)

واللہ اعلم عزوجل ورسولہ اعلم صلی اللہ تعالیٰ علیہ وآلہ وسلم

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20th Shawwal Al-Mukarram 1444 AH / 11th May 2023

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