125165 - He has a partnership in a commercial venture on the basis that every time they buy a dozen with his money, he will have ten riyals

the question

I wanted to go into partnership with my brother and his partners in a large commercial venture that imports ready-made clothing. They said to me: Give us what you have, which was 200,000 riyals, and we will buy some goods with it. If the source is outside the Kingdom, for every dozen that comes in you will have ten riyals, and if the source of the goods is within the Saudi market, you will have two riyals for every dozen. I do not have any further income after the goods reach the store, whether they are sold or not, and the total profits will be known after working out the total number of all the dozens that came into the store by means of the invoices that show that. Is this transaction valid or not?.

Detailed answer

Praise be to Allah.

This transaction is not valid, for two reasons:

1.

It is not permissible to allocate to the partner a specific amount of money; rather he should have a percentage of the profit, such as 5% or 10% and so on.

With regard to defining the profit as a set amount of money, that renders the partnership contract invalid.

Ibn Qudaamah (may Allah have mercy on him) said: If the share of one of the partners is set at a certain number of dirhams, or a certain number of dirhams is allocated along with his share, such as if he stipulates that he will get a percentage and ten dirhams, the partnership is invalid.

Ibn al-Mundhir said: All of the scholars from whom we acquired knowledge are unanimously

agreed that mudaarabah loans are invalid if one of them or both of them stipulate that they will have a certain number of dirhams. Among those from whom we learned that were Maalik, al-Awzaa‘i, al-Shaafa‘i, Abu Thawr and ashaab al-ra’y. End quote from al-Mughni, 5/23.

2.

It is not permissible to guarantee the capital in a partnership; rather, if there is any loss, without any negligence on the part of the worker, then it is to be borne by the owner of the money (capital). What appears to be the case from your question is that is your brother is guaranteeing you that you will get your capital back along with the profit mentioned.

See the answer to question number 100103.

The correct way to do this transaction is for you both to agree on a percentage of the profit, such as stating that you will get 5% or more or less of the profit, the amount of which and whether it will be achieved is known to no one except Allah. The profits may be more than expected, or they may be less, according to the market. The trade may incur a loss, and the loss is to be borne by the owners of the money (capital), each according to the share he has in the partnership.

With regard to a person putting in a sum of money which he is guaranteed to get back, along with taking profit of a specified amount - not a percentage - this is haraam and is invalid.

And Allah knows best.