173200 - He is an agent for a company and he sells goods for a price higher than that of the company and keeps the extra amount

the question

My father is an indenter. He is a sole agent in pakistan of a manufacturing company of Malaysia. Now, my father imports and sells. But some customer demand for the whole container of the product. So my father gives them an indent(proforma invoice of the Malaysian company).
But the prob is that my father always tells the customer the amount which is more than the amount offered by malaysia company.So the amount above goes into my father pocket.
I dont think this is halal for my father since he is not purchasing and then selling, rather he is just an agent. He can only be entitled to commission that the company might give to him per $ sold or per product sold.
I argued a lot with my father but he says that this is the practice done by everyone and that this time is different than the time of the Holy Prophet(Peace be upon him). please help me in making my father understand.

Detailed answer

Praise be to Allah.

This transaction may take three forms:

-1-

If your father buys the product for himself from the Malaysian company, then sells it to customers in Pakistan.

There is nothing dubious in this trade, and whatever he makes of profit is his to keep; it has nothing to do with the price for which the Malaysian company sold it. But it is nor permissible for him to tell the purchaser of the price charged by the Malaysian company unless he is telling the truth about it, in the sense that if any customer asks for the invoice from the Malaysian company,

or to tell him the price he bought it for from them, then he works out a reasonable profit and offers him a price on that basis, this comes under the heading of a transaction based on trust. It is not permissible for him to tell him anything but the real price.

-2-

If your father is simply an agent for this company, and markets its products according to the prices set by the company in return for commission that he takes from what he sells, or a fixed salary that he takes from the company.

In this case, he does not have the right to sell to the customers for a price other than that which is set by the company, and it is not permissible to take the extra profit for himself, because that comes under the heading of betrayal of the company that has appointed him as its agent. It also involves cheating and deceit of the customers, because he makes them think that this company's products are being sold at the official price, whereas that is not the case. Our Prophet Muhammad (blessings and peace of Allah be upon him) said: "Whoever deceives us is not one of us." Narrated by Muslim, 101.

In al-Mawsoo'ah al-Fiqhiyyah (45/42) it says: If the one who appoints an agent sets out specific guidelines for him, he is obliged to adhere to them when carrying out the task he has been appointed to do on his behalf, according to the consensus of the fuqaha'. End quote.

In Fataawa al-Lajnah ad-Daa'imah (14/264) it says: The agent is a trustee, so it is not permissible for him to take anything from the price except with the permission of the one who appointed him as his agent. If he allows that, then there is nothing wrong with it; if not, then he must return the rest of the money to him. End quote.

The scholars of the Standing Committee for Issuing Fatwas were asked about a man who was selling goods for another man, and this man is adding to the price and keeping the extra amount for himself. What is the ruling on the one who does that?

They replied:

The one who is selling the goods is regarded as an agent of the owner of the goods, and he is entrusted with them and their price. Hence if he takes something of the price without the knowledge of the owner of the goods, then he is betraying the trust and whatever he takes is haraam for him.

End quote. Fataawa al-Lajnah ad-Daa'imah, 14/274

See also the answers to questions no. 9386 and 98439.

-3-

If he is an agent for the company, but it has agreed with him that if he sells for more than the set price, then he may keep the extra amount.

In this case, the matter is the subject of a difference of scholarly opinion; the more correct view is that there is nothing wrong with it.

Ibn Quddaamah (may Allah have mercy on him) said: If he says: Sell this garment for ten, and anything more than that is yours to keep, that is valid and he is entitled to the extra amount… Ibn 'Abbaas did not see anything wrong with that. End quote. Al-Mughni, 5/108

Imam Ahmad was asked about someone who gave a garment to a man and said: Sell it for such and such amount, and anything more than that is yours to keep. He said: There is nothing wrong with it.

End quote. Masaa'il al-Imam Ahmad wa Ishaaq ibn Raahawayh, 6/2566

See also the answer to question no. 9386, 121386

And Allah knows best.