118270 - Conditions of tawarruq on shares

the question

I went to the Abu Dhabi Islamic Bank to get an Islamic loan, and they said we do not give cash but we give shares; for example we will buy shares for you worth 50,000 dirhams and sell them to you for monthly instalments over a year, and the price of the sale will be 52,600 over 12 months. We will give you ownership papers for these shares and we will give you a schedule with the names of the companies who will sell these shares for you. What is the ruling on that?.

Detailed answer

Praise be to Allah.

This transaction is based on two things. The first is tawarruq, which is where a person buys an item to be paid for at a later date, then he sells it – to someone other than the person from whom he bought it – for cash, usually at a lower price. This transaction is called tawarruq, which is derived from al-wariq, meaning silver, because the purchaser does not want the product per se, rather he wants cash.

This transaction is permissible according to the majority of scholars.

The second is a muraabahah sale to the one who wants to buy, which means that the bank buys a specific item that the customer wants, then it sells it to him for a price to be paid in instalments that is greater than the price for which it bought it. This is also permissible, if it meets the following conditions:

1.The customer does not buy the product from the bank until the bank has taken possession of it in a real sense. If the item is shares, then it must be shares that are owned by the bank or that it buys and puts into its portfolio.

2.The customer should not sell the item until he has taken possession of it in a real sense and

taken it from the bank in a way that is acceptable according to sharee'aha. If it is shares, then they must be put into his portfolio before he sells them.

3.The customer should not sell the item to the bank or to the organisation that sold it to the bank in the first place, and there should not be a prior agreement or any tradition concerning that, because this is 'aynah which is haraam.

4.The contract between the bank and customer should not contain any penalty clause in the event of late payment of instalments, because this comes under the heading of riba which is haraam.

5.If the item is shares, then it is stipulated that they should be shares in companies that do not deal in haraam things. It is not permissible to deal in shares of companies whose activities are haraam or which have haraam dealings.

For more information please see the answers to questions number 95138, 112445, 89978.

And Allaah knows best.