65689 - He agreed with his partner that he would give him a fixed profit every month

the question

I work as a businessman and I took a sum of money from a friend of mine on the basis that he will be my partner, and I will give him a fixed profit every month. Is that riba?.

Detailed answer

Praise be to Allah.

This partnership is known to the scholars as a mudaarabah partnership (limited or silent partnership), which is where one person gives his money to another to do business with it, and the profit is shared between them according to whatever agreement they make. The one who does the business is called mudaarib.

See al-Mawsoo'ah al-Fiqhiyyah, 8/116

In order for this to be permissible, it is essential that the division of profits be according to a set share of the profit, such as one-half, one-third, and so on.

It is not permissible for that share to be a fixed share of the capital, such as if he took some money to do business with it and they agreed that he would give him – for example – ten percent of the capital on the basis that this is profit.

Similarly it is not permissible for the profit to be a set amount of money – such as one thousand dirhams every year or every month. Rather it must be a share of the profit, according to whatever they have agreed upon.

If a specific amount of money or a specific percentage of the capital is stipulated, then the

partnership contract is haraam and invalid.

All of this has been agreed upon by the scholars, and there is no dispute among them concerning that, praise be to Allah.

Ibn al-Mundhir said: The scholars are unanimously agreed that an agent may stipulate to the owner of the money that he will get one-third of the profit, or half, or whatever they agree upon, provided it is a known percentage (of the profit). End quote from al-Mughni. 7/136

Ibn Qudamah said in al-Mughni (7/146):

If the share of one of the partners is set as a specific amount of money, or a sum of money is set along with his share – such as if he stipulates that he will have a percentage plus ten dirhams, the partnership becomes invalid. Ibn al-Mundhir said: All of the scholars from whom I learned are agreed that the mudaarabah partnership is invalidated if one or both of them stipulate that they will have a certain amount of money. Among those from whom we learned that are Maalik, al-Awzaa'i, al-Shaafa'i, Abu Thawr and Ashaab al-ra'y… That is not valid for two reasons. The first is that if a specific amount of money is stipulated, it is possible that they may not make any other profit, so that person will take all of the profit. And it is possible that they may not make a profit at all, so it would be taken from the capital. Or they may make a great deal of profit, and the one for whom a specific amount of money was stipulated will lose out. The second reason is that the share of the agent should be a known percentage, because it is not permissible for it to be a set amount of money. If the percentages are unknown, it is invalid. End quote.

Shaykh al-Islam Ibn Taymiyah said:

If it stipulates in the mudaarabah contract that the owner of the money will get a certain amount of money, this is not permissible, according to scholarly consensus. That is because transactions should be based on fairness, and these transactions are a kind of partnership, and it can only be a partnership if each partner gets a percentage, such as one-third or one-half. If one of them is given a specific amount, that is not fair, rather it is unjust. End quote from Majmoo' al-Fatawa, 38/83

The Standing Committee was asked about two men, one of whom gave the other a sum of money with which to do business for him, and they agreed that he would give him 3% of the capital as a profit each month.

They replied:

Your giving the money to the trader to do business with it and his giving you a set amount, three percent of the money, is not permissible, because it is a kind of guaranteed profit. End quote from Fatawa al-Lajnah al-Daa'imah, 14/318

They were also asked about a company that takes money from people to do business with it, and gives them a share of 30 percent of the capital every year, and claims that it makes a profit of 100 percent.

They replied:

If the company mentioned gives the partners a set, guaranteed amount of profit, this transaction is not permissible, because it is riba. The transaction which is permissible is that in which each partner is given a share such as one-quarter or one-tenth, which increases or decreases according to what happens."(Fatawa al-Lajnah al-Daa'imah, 14/321)

And Allah knows best.