

Analysis of earning by drop shipping in views of Shariah

¹Dr. Saeed Ul Haq Jadoon

Lecturer, Department of Islamic and Religious Studies, Hazara University Mansehra.

²Dr. Sana Ullah

Chairman Department of Quran and Tafseer, AIOU, Islamabad

³Dr. Aminullah

Assistant Prof., Department of Islamiyat, Shaheed Binazir Bhutto University Sheringal Dir

³Dr. Muhammad Tariq

Lecturer, Department of political Scienc, Hazara University Mansehra, Pakistan.

⁴Dr. Salihud Din

Professor, Department of Islamic Studies, Abdul Wali Khan University Mardan, Pak.

⁴ Muhammad Yahya

Phd Scholar, Department of Theology, Islamia Collage University Peshawar , Pakistan.

Abstract:

In modern era, where computers and internet have brought revolution in every field and sphere of life, countless new forms have been introduced and extended the sources of business and means of earning. In a trice, buying something from one continent and selling it in another continent is no longer just an idea but has become a day by day routine. One of the several sources of online income is drop shipping, in which without investing any capital or investment and without setting up a shop, millions of business can be done just by pasting the pictures of various items on your page. The Covid-19 pandemic has fetched the world nearer to online sources and these trends have further increased. It is obligatory for a Muslim to learn the rules of any business before starting or entering into it. Therefore, it is important to be aware of drop shipping to distinguish between halal (lawful things) and haram (forbidden things). In the following lines, drop shipping will be introduced and its lawful analysis will be done. The exercise of drop shipping is not allowed and legalized in Shariah due to two concerns: sale of non-possessioned item, sale of non-possible item. As an alternative to drop shipping, there are three cases which have been described in this Research paper.

Key Words: Business, drop shipping, Shariah, Products.

Literature Review

Before this, fatwas have been issued by various authorities about drop shipping and a few articles have been written on its various aspects, some of which are as follows:

1.The Implementation of Sharia Compliance in the Drop shipping Buying and Selling Scheme During The Pandemic Covid-19 in Indonesia , Bagya Agung Prabowo, ICETLAWBE 2020, September 26, Bandar Lampung, Indonesia¹

2. Dropshipping: the Halal and Shariah compliant way, By Mufti Faraz Adam²

Introduction to Drop Shipping

1st definition;

Drop shipping is a retail fulfillment method where a store does not keep the products it sells in stock. Instead, when a store sells a product, it purchases the item from a third party and has it shipped directly to the customer. As a result, the merchant never sees or handles the product.³

2nd definition;

A business model in which a retailer dose not keep physical inventory of the products it sells, but instead sources and ships the products directly form a third-party supplier or manufacturer.⁴

Benefits from a business point of views;

Less capital is required

Easy to get started

Love overhead

Flexible location

Wide selection of products

Easy to scale⁵

Procedures;

The following phases are involved in running a dropshipping business:

1. First of all the dropshipper creates his online platform for which he creates his website or then opens his page in a social media website like Facebook, Instagram etc. and tries to increase circulation on it through various ways.

2. A dropshipper takes pictures of various items from a company's or organization's official website or marketplace, pastes them on their platform, lists their features and merits, and sets price that matches the price at which the item can be found online or in the marketplace. It tries to attract people to buy it.
3. When a customer contacts the dropshipper and shows interest in buying something, after finding out the address from the dropshipper, the supplier or manufacturer in the market places an order to send the item to that address.
4. The customer usually pays for the item through the courier service provider as cash-on-delivery, sometimes through a credit card or account in advance.

Similarly, the drop shipper keeps his profit, sometimes in advance and sometimes after delivery quotes the price of the supplier or manufacturer.

It should be noted that sometimes there are some different procedures, but the common thing is that the dropshipper does not pre-order the item, as the definition of dropshipping makes clear.

Shariah issues of dropshipping

The Shariah non-compliant issues in dropshipping are raised at two levels:

1. Retailer's transactional structure with customer
2. Bearing of risk and possession of the retailer

If the dropshipper is "selling" the item to the customer, then that is not permissible as he does not own the item being sold. The goods are owned by the manufacturer and directly sold to the customers. There is no point in the process where the ownership and the possession of the goods passes from the manufacturer to the dropshipper. Hence to categorize the concept of dropshipping as a sale contract will make the structure non-compliant since it is not permissible in Shariah to sell something that one does not own. Most of the Shariah opinions which have declared dropshipping as non-compliant have viewed it as a sale contract where the dropshipper does not take possession of goods.⁶

A major litmus test of possession in terms of Shariah is whether the dropshipper bears any risk of the sale item arising from its ownership and possession. In most cases, if not all, the supplier typically bears the responsibility, liability, and risk of the asset until it reaches the end customer. As such, a Salam or an Istisna transaction is not rendered in a Shariah compliant manner, both demand that the seller acquires possession – whether physical or constructive and the risks that come with it – before the onward delivery to the end-customer.⁷

Jurisprudential Analysis;

If we look at drop shipping from a Shariah point of view, there are two fundamental flaws in its prevalent practices:

1. In drop shipping, a drop shipper presents an image of an item for cross-sale on his website, etc. The product is not currently in his possession and takes order from the customer. He buys the item from the seller etc. and delivers it to his customer. In the blessed hadiths, it is forbidden to sell something that is not owned by a person. It is narrated from Hazrat Hakim bin Hizam (may Allah be pleased with him):

عَنْ حَكِيمِ بْنِ حِزَامٍ قَالَ قُلْتُ: يَا رَسُولَ اللَّهِ الرَّجُلُ يَطْلُبُ مِنِّي الْبَيْعَ وَلَيْسَ عِنْدِي أَفَأَبِيعُهُ لَهُ؟ فَقَالَ رَسُولُ اللَّهِ -صلى الله عليه وسلم-: «لَا تَبِعْ مَا لَيْسَ عِنْدَكَ»⁸

Translation: Hakeem bin Hizama RA narrates that he [RA] asked O messenger of Allah, a person demands to buy something from me but I don't own that thing, can I sell it to him? The Messenger of Allah, said: Do not sell such a thing which you don't have.

Based on this Hadith, according to the jurists, it is a mandatory condition for the sale to be held by the seller. Allama Kasani writes:

وَمِنْهَا وَهُوَ شَرْطُ انْعِقَادِ الْبَيْعِ أَنْ يَكُونَ مَمْلُوكًا لِلْبَائِعِ عِنْدَ الْبَيْعِ فَإِنْ لَمْ يَكُنْ لَا يَنْعَقِدُ وَإِنْ مَلَكَهُ بَعْدَ ذَلِكَ بِوَجْهِ مِنَ الْوُجُوهِ إِلَّا السَّلَمَ خَاصَّةً وَهَذَا بَيْعٌ مَا لَيْسَ عِنْدَهُ⁹ وَهِيَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ بَيْعٍ مَا لَيْسَ عِنْدَ الْإِنْسَانِ وَرَخَّصَ فِي السَّلَمِ¹⁰

Translation: One of the conditions of sale is that the thing must be in seller possession of at the time of sale, so if he is not in possession at that time, the subrogation will not take place, even if he somehow becomes the owner of it later. However, it is allowed only in Bay Salam. This kind of sale is called "sale without money". Rasulullah SAW has forbidden selling what a person does not have, but he has allowed Salam.

2. The second drawback is that the item sold in drop shipping does not come into the possession of the drop shipper, but the wholesale dealer or company sends the product directly to the customer, whereas according to Sharia, any such It is not permissible to sell a thing that has not come into the possession of the seller. It is narrated in Musnadabi Hanifah that:

عن عتاب بن أسيد، أن رسول الله صلى الله عليه وسلم بعثه إلى أهل مكة، فقال: «انطلق إلى أهل مكة اخبرهم عن أربع خصال: عن بيع ما لم يقبضوا، وعن ربح ما لم يضمنوا، وعن شرطين في بيع، وعن بيع وشرط»¹¹

Translation: Uttab bin Asid RA, says that the Messenger of Allah SAW, sent me to the people of Makkah with a message to prevent them from four things: 1. From selling what

they did not possess, and from profiting from what they did not guarantee the loss of.
From,by placing two conditions in the sale, and by sale and condition.

On the basis of this hadith, the jurists have declared possession as a condition in the sale of movable objects. Shamsul Aima Sarkhsi writes:

المنقولات لا يجوز بيعه قبل القبض عندنا...وحدثنا ما روي عن النبي - صلى الله عليه وسلم - أنه نهى عن بيع ما لم يقبض
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Translation: With us, the sale of movable objects is not permissible before possession. Our argument in this is the hadith on the authority of the Messenger of Allah SAW, that he forbade the sale of unclaimed things.

Contemporary Scholars' Opinions about Drop Shipping;

Due to these two fundamental flaws, drop shipping has been declared illegitimate in most of the fatwas of contemporary scholars. In response to question number 609445 on the website of Darul Uloom Deoband, India, it is written:

"In order to sell a movable thing it is necessary that the thing be owned by the seller, so it is necessary that it first come into the possession of the seller, and then sell it to another, if If he sells it to someone else before taking possession after buying it, then it is not permitted, such a sale is illegal in the judgments of Shariah, so in drop shipping, even if the explanation you mentioned is accepted as correct, then avoid other errors. No; therefore drop shipping is not permissible."¹³

On the website of Dar-ul-Ifta Jamia Osmania Peshawar, the order of drop shipping has been written in these words under fatwa number: 2913/297/322:

"In case of liability, since the thing sold is not in the possession of the seller (seller) at the time of sale, the sale is not permissible, and also because the thing sold does not come into the possession of the seller, but of the concerned dealer or The company ships the item directly to the customer, so this issue is not lawful according to sharia."¹⁴

Similarly, the order of drop shipping is written in detail under Fatwa No: 72663 of Jamiat Al-Rashid Karachi, it states that:

“So the products that are in stock and owned by the online store person themselves can be sold on order. But the products he does not have and he first confirms the order, then later buys from the market, then it is not permissible.”¹⁵

In these three Fatawas, the commonly used method of drop shipping has been declared illegal and unlawful. However, the fatwa of Jamiat Uloom-ul-Islamiyyah Allama Banuri Town Karachi is different from this, in which the posting of images by the drop shipper on their online store is considered a invitation (Dawat) instead of a request, and therefore the generally accepted method of drop shipping is also justified and declared valid. See Fatwa:

"In this approach, it seems acceptable for the buyer to click on the items they want, but the fact is that the buyer's action is an offer and the seller's display of their product on their site is an offer, not an acceptance, like a shopkeeper who decorated his shop in a fraud and deceiving way and pasted prices on it is considered invitation of buying rather than request (forbidden).

In the same way, the seller's display of his items on the website is also an invitation, and just as the shopkeeper's action in the shop is accepted, in the same way, the seller's action in purchasing through the Internet is also an acceptance of the offer. In a normal shop, if the buyer and the shopkeeper do not say anything in language, then the sale is completed by both sides, and if the buyer expresses his desire to buy in language and the shopkeeper does not say anything in language, but hands over the thing. Or if the price is accepted, it is actually accepted by the seller, in the same way it is also accepted on the website.¹⁶

A valid alternative;

Due to the advantages and outcomes of drop shipping and the employment of thousands of people connected with it, it is essential to present its legal alternatives so that those who distinguish between halal and haraam can use them.

1. The dropshipper should not make a final deal while taking the order from the customer by giving the pictures of the products in his online store, but promise him that I will provide this product to you at this price. Then purchase and take possession of the same item from the respective supplier or manufacturer, and then re-confirm with the customer. By doing this, both errors and taboo will be avoided.
2. The drop shipper makes a promise to sell to the customer, and then buys the item and takes possession of it through a representative and sends it to the customer by talking amount from the customer. Through mutual agreement and consent the selling can be legalized and halal.

وَحَقِيقَةُ التَّعَاوِي وَضْعُ الثَّمَنِ وَأَخْذُ الْمُتَمَنِّ عَنْ تَرَاضٍ مِنْهُمَا مِنْ غَيْرِ لَفْظٍ --- فَإِنَّ الْبَيْعَ لَا يَزِمُ عَلَى الصَّحِيحِ حَتَّى لَوْ امْتَنَعَ أَحَدُهُمَا بَعْدَهُ أَجْبَرَهُ الْفَاضِي-¹⁷

Translation: The truth of the mutual agreement is that the price should be taken by the seller, both of them agree, and neither of them should say a word. ...Thus the sale

becomes obligatory, according to the righteous religion. Therefore, if one of them refuses it later, the law (Qazi) will force him.

3. The drop shipper should not sell the products that he does not own, but sell them as an agent of the particular supplier manufacturer, and receive a salary or fee from him for this work. As a broker or commission agent, one or both parties may be charged a known and fixed amount.

قَالَ فِي التَّارِخَانِيَّةِ: وَفِي الدَّلَالِ وَالسِّمْسَارِ يَجِبُ أَجْرُ الْمَثَلِ، وَمَا تَوَاضَعُوا عَلَيْهِ¹⁸ ... وَفِي الْحَاوِي: سُئِلَ مُحَمَّدُ بْنُ سَلَمَةَ عَنْ أَجْرَةِ السِّمْسَارِ؟ فَقَالَ: أَرْجُو أَنَّهُ لَا بَأْسَ بِهِ وَإِنْ كَانَ فِي الْأَصْلِ فَاسِدًا؛ لِكَثْرَةِ التَّعَامُلِ، وَكَثِيرٌ مِنْ هَذَا غَيْرُ جَائِزٍ، فَجَوَّزُوهُ لِحَاجَةِ النَّاسِ إِلَيْهِ...¹⁹ الخ

Translation: It is written in Tattar khaniyyah that broker and samsaras will get equal remunerations, or what has been agreed upon. It is believed that Muhammad bin Salama was asked about the wages of the samsar and he said: There is nothing wrong with it, although this matter is actually irregular, but due to the plenty of interaction, it should be reviewed. In this way, many matters are not permissible in principle, but due to the need of the people, they have been declared permissible.

Discussion's gist:

1. Drop shipping is a modern source of online earning that provides employment to thousands of people.
2. The exercise of drop shipping is not allowed and legalized in Shariah due to two concerns: sale of non-possessioned item, sale of non-possible item.
3. As an alternative to drop shipping, there are three cases which have been described previously.

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