

Is It Permitted to Prepay For an Item That is Out of Stock?

By Rav Yosef Kushner

Case: I needed a dryer, but the store I went to didn't have it in stock. They ordered one and said it will be delivered in a few months' time. They didn't know what the price would be when the dryers came back into stock, but they offered me a locked-in price if I was willing to pay now.

Question: Is that a problem of *ribbis*?

Answer: Prepaying and locking in a price in this way is a form of *ribbis derech mekach* that the Gemara calls *pesika*.

Chazal explain that the Chachamim forbid this type of transaction because it is similar to a loan. When one prepays for an item and only receives the item he bought later, it has the appearance of a loan. It looks as if the buyer is lending money to the seller, and the seller is repaying the debt when he later presents the purchased item to the buyer. If the buyer would prepay \$100 for an item and several months later receive the item that is now worth \$120, this would have the appearance of *ribbis*.

For this reason, it is forbidden to lock in a price if the store doesn't have the item in stock and it is not available elsewhere. If the store does have at least one of these items in stock, or if this particular item is available in other stores right now, it would not be a problem. Since the item could technically be given to the buyer now, the transaction does not have the appearance of a loan and is not subject to the prohibition.

It should be noted that prepaying for an item that is not yet available is forbidden even if the buyer is not given a discount for paying in advance. Because the price may go up by the time the item is available, there would be a problem of *pesika*.