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HEMDAT YAMIM

Parashat HaShavua

Vayakhel Pekudei, 27 Adar 5777

Melacha for the Mishkan on Shabbat?

Harav Yosef Carmel

Our *parasha* begins with the laws of Shabbat (Shmot 35:1-3) before beginning the description of the actual building of the *Mishkan*. We also find that in the previous *parasha*, *Ki Tisa*, there is mention of the *mitzva* of Shabbat. "Hashem said to Moshe, speak to Bnei Yisrael: You shall nevertheless keep my *Shabbatot*, for it is a sign between Me and you..." (Shemot 31:12-13).

We can easily identify a common order to the themes of the sections – command to build the *Mishkan*; Shabbat; the episode of the Golden Calf; Shabbat; building of the *Mishkan*. What is the significance of this order?

Rashi posits that the Torah is not bound to a chronological order. The episode of the Golden Calf occurred before the command to build the *Mishkan*, as the former was on Tamuz 17. The latter was after Yom Kippur, when Hashem forgave Bnei Yisrael, and was followed by contributing towards the *Mishkan* and finally its inauguration on Nisan 1.

The Ramban, on the other hand, argued that the command regarding the *Mishkan* preceded the breaking of the tablets, although it was repeated after the process of atonement was completed. According to the Ramban, the order of events described in the *parshiyot* was chronologically accurate. According to Rashi, why did the Torah write the command to build the *Mishkan* before the sin of the Golden Calf if it occurred after it? Both according to Rashi and the Ramban, one needs to explain why Shabbat is juxtaposed to the Golden Calf and the *Mishkan*. In order to explain this, let us look at Rashi's comments regarding the two *parshiyot* discussing Shabbat.

Rashi in our *parasha* explains that Moshe writing about Shabbat before the *Mishkan* teaches us that the construction of the *Mishkan* does not override Shabbat. However, in *Parshat Ki Tisa*, the command of Shabbat follows that of the *Mishkan*. It seems, then, that there is a contradiction on whether the order is an indication of which supersedes the other. Furthermore, the reason that Rashi gives in *Ki Tisa* for Shabbat being kept even in the face of constructing the *Mishkan* is that the word "*ach*" excludes work done on Shabbat. However, since it is written within Shabbat, it should actually exclude the opposite – that work should be allowed on Shabbat for the sake of the *Mishkan*!

To answer these questions, let us recall the Vilna Gaon's thesis. He explained that the command to build the *Mishkan* before the sin of the Golden Calf was never fully realized. The description of the actual building of the *Mishkan* that we find after the Golden Calf is not related to the previous commandment, as the order was changed after the sin. After the sin, the nation's spiritual diminishment weakened the power of the *Mishkan*.

Before the Golden Calf, the command of Shabbat comes after the command to build the *Mishkan*. This teaches that in an ideal spiritual state, it would have been permitted to work even on Shabbat in order to build the *Mishkan*. After the sin, we live in a world where Shabbat must come first, and it was indeed forbidden to build on Shabbat even for the *Mishkan*.

Let us pray that we become worthy to rectify both things – to return to our spiritual heights before the sin of the Golden Calf and be worthy of building the *Beit Hamikdash* on the highest level.

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Ask the Rabbi

by Rav Daniel Mann

Paying Earlier than the Payment Plan Prescribed

Question: My company pays suppliers with payment plans we work out in advance with each one. Occasionally, a supplier calls with a request that we pay earlier than already agreed in exchange for a “cash” purchase discount we work out. (By “cash,” we include checks and debit cards – the point is that payment is not delayed). Is this like a regular permitted business discount, which is permitted, or is this discount a case of *ribbit*?

Answer: Actually, the case you ask about is easier to permit than that which you assume is permitted. Let us develop the topic from the beginning.

Paying for something not at its “natural” time raises issues of *ribbit*. The normal time to pay for a sales item is at the time he receives it. Therefore, it is forbidden for a seller to allow a buyer to pay on credit and clearly charge him more for the privilege (Bava Metzia 65a).

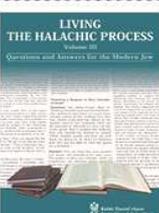
Therefore, one has to be careful when buying on credit. We will now mention some of the permitted ways of buying on credit. If during deliberations before the sale only the sales price for credit pay was on the table, it is permitted (*ibid.*, Shulchan Aruch, Yoreh Deah 173:1) even if, in fact, it would have been cheaper if he bought with cash. This system has a couple of conditions, which are predicated on the need to ensure it is not clear that the seller is charging extra for waiting for payment. One is that there must not be a set price for the item that they exceeded with the credit agreement (*ibid.*). Another is that the increase in price for credit is not steep enough to be clearly related to the credit (*ibid.*). If you negotiate your own prices with suppliers, you can agree on a payment scheme before agreeing on a price and then negotiate one price accordingly. It is not a problem if other customers get to choose between different rates for cash and for credit.

Another possibility is to use a *heter iska* for the transaction, especially if the item is for business, not consumption use (Brit Yehuda 40:21). (It is preferable but not absolutely required for the *heter iska* to be a written document (Brit Yehuda 40:9; Torat Ribbit 16:2).) Then, the late payment, which is considered like the seller’s loan to the buyer, is viewed as the seller’s investment of the sales money in the buyer’s hands with assumed joint profits. One who regularly sells on credit would be wise to put up a clearly visible sign stating that all the transactions on credit are “according to the *heter iska* found in ...”

There is a distinguished but minority opinion (Chochmat Adam 139:5) that if the accepted market price is the one the seller gave for credit and this seller gives a particularly cheap price for cash, it is permitted to buy on credit even when two prices were given. The Pitchei Teshuva (YD 173:5) and most contemporary *poskim* do not accept this leniency.

There is a more accepted opinion (Imrei Yosher 1:150; see Torat Ribbit 8:15, Brit Yehuda 22:8), although far from unanimous, that applies in many business settings. If the industry standard is to pay by credit, that becomes the normal payment time. Then, even if there is a known cheaper price for cash, paying on credit is normal and not an issue of *ribbit*.

Regarding your question, if after a proper sale on credit, you are offered to pay earlier than agreed for a discount, this is permitted (Shulchan Aruch, YD 173:3). Rishonim (see Tur and Beit Yosef, YD 173) compare this to someone who sells a debt for future payment to a third party for immediate cash but at a lower face value. The discount is not considered a new “loan” that the seller is requesting from the buyer, who owes him later. This is apparently because the payment still corresponds to the sale, which classically is paid immediately. The Rama (YD 173:3) warns that the offer of a discount should be made only after a *kinyan* has made the sale final. Otherwise, it will be forbidden for the buyer to stand by the credit deal. While it is not always clear when the *kinyan* is, if you already received the merchandise, the *kinyan* will presumably be complete.



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Ein Ayah

(from the writings of Harav Avraham Yitzchak Hakohen Kook, z.t.l.)

Inclination Toward Beautification – Positive and Negative

(condensed from Ein Ayah, Shabbat 4:9)

Gemara: Ameimar, Mar Zutra and Rav Ashi were sitting together (on Shabbat). They brought in front of them *barda* (a mixture of herbs for washing themselves). Ameimar and Rav Ashi washed, but Mar Zutra did not. They said to Mar Zutra: Do you not accept what Rav Sheshet said, that *barda* is permitted? Rav Mordechai said to them: Do not learn from Mar Zutra in this matter, for he does not permit such washing even during the week. Indeed, Mar Zutra holds like the *Tanna* who permitted to remove dirt or scabs from one's body only if he is uncomfortable but not to beautify himself. (Rashi – such female-like beautification is forbidden for men). Ameimar and Rav Ashi followed the *Tanna* who allowed a man to wash his face, hands, and feet every day in honor of his Creator, as the *pasuk* states, "All that Hashem made is for Him" (Mishlei 16:4).

Ein Ayah: There are two sides to the inclination to beauty – a positive and a negative one. On the one hand, it uplifts the soul and has a good and honorable impact on the eyes that see it. On the other hand, a person could become lost in it, thereby losing his basic reason for his success. The basis of a person's internal success is his realization that his happiness is always to be found within himself, his heart and soul. He should not seek it from others.

The inclination toward beauty enslaves a person to others, as most aesthetic things depend on the eye of the beholder. This distances a person from the way of truth and true fear of Heaven, which is based on the lofty idea of "the candle of Hashem is the soul of man who searches the inner chambers" (Mishlei 20:27). The highest goodness derives from one's internal integrity, based on his deep desire for goodness, justice and integrity, not by finding favor in the eyes of others.

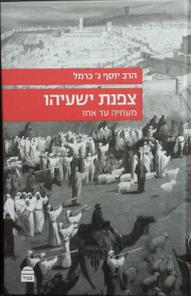
Therefore, both inclinations must find things to strengthen them. Those who seek beauty, to find favor in the eyes of others, benefit not only from the uplifting nature of the beauty. It also develops and enhances society, as it makes people interdependent one on another regarding matters they have agreed upon.

However, there are unique individuals whose focus is on their own self-improvement, piety, and sanctity. Only indirectly will great goodness come from these holy people to society in general. They bring great benefit to the broad society. These people do not influence others by their actions, but by their essence, as opposed to those who influence by their actions.

It is more fitting for those hidden people, whose goodness resonates when they are inwardly focused, to despise beauty and splendor, nullifying any search for finding favor in the eyes of their surroundings. This inclination toward absolute truth will bring forth an abundance of good, peace and inner tranquility, as well as holiness of the heart and a depth of the soul.

There are others whose purpose is to influence directly through actions and speech. Those, who impact the world directly, are by nature connected to this world. Bringing goodness and honor through beauty is part of their holy service. They need to wash their faces, hands and feet in honor of their Creator, for this is the honor of Hashem. This good influence of holy people, righteous and wise Jews, has a great impact on others. This will increase the attribute of shame, as everyone will find themselves enslaved to a society that does right and good. This benefit outweighs the detriment of those who try to use external beauty to blind the other's eye, and lose all sense of their inner self, which is given to each individual person.

Through these two inclinations together, the good and right things will emerge. "These and these are the words of the living G-d."



**Tzofnat Yeshayahu-
Rabbi Yosef Carmel**

The Prophet Yeshayahu performed in one of the most stormy and dramatic periods of the Israeli nation's life, a period of anticipation for the Messiah that was broken by a terrible earthquake, and also caused a spiritual and political upheaval. The light at the end of the tunnel shone again only in the days of Chizkiyah.

"Tzofnat Yeshayahu – from Uziya to Ahaz" introduces us to three kings who stood at this crossroad in our nation's history: Uziya, a king who sought God but was stricken with leprosy because of his sin; Yotam, the most righteous king in the history of our people; And Ahaz, the king who knew God but did not believe in His providence.

In his commentary on the prophecies of Yeshayahu, Rabbi Yosef Carmel, Head of the Eretz Hemdah-Gazit rabbinical court and a disciple of Rabbi Shaul Israeli zt"l, clings to the words of Hazal, our sages, and to the commentaries of the Rishonim, the great Jewish scholars of the middle ages, and offers a fascinating way to study Tanach. This reading attempts to explain the Divine Plan in this difficult period and to clarify fundamental issues in faith. Tzofnat Yeshayahu reveals to the reader the meaning of the prophecies in the context of the prophet's generation and their relevance to our generation.

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P'ninat Mishpat

Who Is Responsible for Municipal Tax When? – part II

(based on ruling 74018 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) is an organization that rented property from Aug. 2004, with renewed contracts, until July 2010. In July 2008, the defendant (=def), another organization, sublet the property until the end of pl's contract in 2010. Subsequently, def rented the property from the owner independently without a contract. In July 2011, def signed a contract but the *arnona* (municipal tax) account was still in pl's name until Jan. 2012. The entire time, *arnona* was not paid, which caused a huge debt (974,632 shekels from Jan. 2007-Jan. 2012) which included inflation adjustments and interest. The lawyer pl hired to negotiate a payment plan with reduced penalties and tax breaks for their being NPOs, lowered the debt to 700,000, and *arnona going forward* was lowered due to def's NPO work. Pl and def, which both benefitted from his work, disagree how to split up his 60,000 shekel fee. Pl wants it and the balance of the *arnona* debt to be paid according to the amount of time each used the property, i.e., pl – Jan. 2007-June 2008 (period A) = 30%; def – July 2008-Jan. 2012 = 70%.) They argue that the fact that def preferred to keep things in pl's name (contract, *arnona* account) should not harm pl. Def is willing to pay in full from July 2010 to July 2011 (period C) because they were full renters at that point. However, regarding the time they were sub-letters (period B), they should pay only according to the rate they are paying now because it was pl's obligation to transfer the account to def, who could have received a bargain price. So too, in period D, when there was a contract between def and the owners, pl could have removed themselves without def's help and the fact that pl was charged at a high rate was their own problem.

Ruling: Last week we saw that the direct obligation of *arnona* during the times in question is def's.

Regarding payment of late penalties, pl was indeed negligent in not paying the bills, and this directly caused the penalties. Even though the principle financial obligation was def's, responsibility to arrange the payments was pl's during period B. If there was possible strategic value in delaying payment, pl should have consulted with def. Therefore, pl will pay these penalty payments for period B. Regarding period C-D, pl should have been out of the picture, once their contract was over. Def did not prove that pl asked them not to take over the *arnona* account, and there was no reason for them to imagine that pl was paying these bills. Therefore, def should have paid themselves and since they did not, the penalty payments are theirs. Since the obligation is def's, it is not considered as if def is paying pl *ribbit*.

The penalty payments should be divided according to the time of each obligation. The benefit of the reduction is according to the size of each part of the obligation, except for the final unexplained reduction of 60,000 shekels which should be split evenly by the sides.

The agreement between def and pl and between the lawyer was that they should pay according to the amount of reduction. Therefore, according to the amounts of reduction from which each side benefitted, so too should the lawyer's fee be levied.

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