

בין חדש בין ישן יוצן –

Whether it is new or whether it is old; it should be cooled

OVERVIEW

The גמרא cited a (second ברייתא) which states (in seeming contradiction to the previously cited ברייתא) that whether it was a new oven or an old oven which was heated with איסורי הנאה it (merely) needs to be cooled. But it need not be destroyed (even if it is a חדש). Our תוספות explains the ruling of this second ברייתא.

דזה וזה גורם¹ מותר –

Since **זה וזה is permitted**. Therefore it only needs to be cooled (even by a תנור חדש).

anticipates a difficulty:

אף על גב דזה וזה גורם דוקא בדיעבד מותר כדמוכח בסוף פרק כל הצלמים (עבודה זרה מח, ב) -

Even though that **זה וזה is permitted** as is evident in **כל הצלמים** -

דאמר רבי יוסי אין נוטעין אגוז של ערלה ומודה רבי יוסי שאם נטע שהוא מותר -

Where **ר"י ruled that it is not permitted to plant a walnut of ערלה, but ר"י agrees that if he planted this אגוז של ערלה that the fruit which will grow from it is permitted** -

וחשיב ליה זה וזה גורם² -

And the גמרא there considers it to be a case of **זה וזה** and nevertheless it is only מותר (after it was cooled) on account of **זה וזה**!, but not לכתחלה, why here are we permitted to use this oven לכתחלה, but not בדיעבד

responds:

דהכא הוי כדיעבד³ דאם נאמר חדש יותץ יפסיד התנור:

For here (by the תנור חדש) it is like a **דיעבד**, for if we will rule that **חדש יותץ**, the oven will go to waste; we will never be able to use it.

¹ See חדש [TIE footnote # 4]. In the case of a תנור חדש if it used again (after it was cooled down) with fuel that is גורם there will be a גורם of איסור namely the תנור חדש (see חדש [TIE footnote # 1 & 3]) and a גורם of היתר, the new fuel; therefore whatever is cooked in this oven is permitted since there is also a גורם of היתר; the תנא of this ברייתא maintains that **זה וזה** is מותר.

² The אגוז (from which the tree will sprout) is a גורם של איסור, and the ground (from which the tree grows and is nourished) is a גורם של היתר.

³ When something is לכתחלה and מותר בדיעבד that means that מעיקר הדין it is מותר, but since there is some concern that if we allow this, it may come to an actual איסור, therefore we prohibit it לכתחלה, for there is no urgency to do this procedure; however once it was done and if it is prohibited there will be a loss, therefore (since there is no actual איסור) we cannot prohibit it. Similarly here we cannot just say do not use this oven, for then we are virtually destroying it without any basis since מעיקר הדין it is מותר.

SUMMARY

A case of זוז"ג, where if we prohibit it will result in a loss, is considered a בדיעבד.

THINKING IT OVER

1. אגוז של ערלה גמרא proves that זוז"ג is מותר only בדיעבד from the גמרא of ערלה. Why did not תוספות prove it from our גמרא which states ישן יוצן, for there too it is a זוז"ג,⁴ and nevertheless it needs to be יוצן we cannot cook with the heat of the איסורי הנאה?

2. תוספות answers that by a תנור if it will be prohibited (and we will need to destroy the תנור) there will be a loss, therefore it is considered as a בדיעבד. Why do we not say the same thing by the אגוז של ערלה, if we prohibit planting it, there will be a complete loss, therefore we should be permitted to plant it לכתחלה, just as we are able to cook in the oven לכתחלה?⁵

⁴ The oven (which is a ישן) is a גורם של היתר and the fuel (of איסורי הנאה) is a גורם של איסור. If זוז"ג would be מותר לכתחלה there would be no need for יוצן, we can cook in it as is.

⁵ See דבר שמואל.