



**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: IA/07023/2014

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 14 October 2014**

**Determination  
Promulgated**

**On 27 October 2014**

**Before  
DEPUTY JUDGE DRABU CBE**

**Between  
Mr KALED AHMED  
ANONYMITY DIRECTION IS NOT MADE**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

Representation:

For the Appellant: Mr D Coleman of Counsel instructed by Novells Legal Practice,  
Solicitors

For the Respondent: Mrs Alice Holmes, Senior Presenting Officer

**DETERMINATION AND REASONS**

1. The appellant is a national of Bangladesh. He was granted permission to appeal to the Upper Tribunal by Judge Brunnen, a Judge of the First Tier Tribunal against the decision of Judge Abebrese who had dismissed his appeal against the decision of the Secretary of State refusing his application to remain in the United Kingdom. Permission had been granted on 18 August 2014.
2. Upon the appeal coming before me the representatives of the parties agreed that there were material errors of law in the decision of Judge Abebrese such as failure to realise that the appellant's application had been made before the change in the Rules and yet he had applied paragraph 276ADE and given no consideration to the appellant's claim

under Article 8 outside the Rules. Mr Colman argued that the only fair way of resolving the issues raised in the appellant's appeal would be to direct it to be heard afresh on all issues by a Judge at the First Tier Tribunal other than Judge Abebrese. Mrs Holmes agreed with that.

3. Accordingly I directed that the appeal be allowed on the basis that it be reheard on all issues by a Judge of the First Tier Tribunal as requested by the parties, having been satisfied that the determination of Judge Abebrese was unsustainable for material errors in law.

Signed K Drabu CBE

Date 20 October 2014

Judge of the First-tier Tribunal sitting as Deputy Judge of Upper Tier