



**The Upper Tribunal  
(Immigration and Asylum Chamber)  
IA/37604/2013**

**Appeal number:**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On October 28, 2014**

**Determination  
Promulgated  
On October 30, 2014**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE ALIS**

**MR MOHAMMAD AKHER UZ ZAMAN  
(NO ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

Representation:

For the Appellant: In person  
For the Respondent: Mr Tarlow (Home Office Presenting  
Officer)

**DETERMINATION AND REASONS**

1. The appellant, born June 3, 1988, is a citizen of Bangladesh. He entered the United Kingdom as a student with leave until June 30, 2010. He subsequently extended this leave as a Tier 4 student

until April 23, 2013. On September 25, 2012 he applied for leave to remain as a Tier 1 (Entrepreneur) Migrant. The respondent refused this application on September 10, 2013 under paragraph 245DD HC 395 and issued a removal direction under section 47 of the Immigration, Asylum and Nationality Act 2006.

2. The appellant appealed to the First-tier Tribunal under Section 82(1) of the Nationality, Immigration and Asylum Act 2002 on September 27, 2013 and on July 21, 2014 Judge of the First Tier Tribunal Aziz (hereinafter referred to as the "FtTJ") heard his appeal and dismissed it in determination promulgated on July 30, 2014.
3. The appellant lodged grounds of appeal on August 11, 2014 and on September 19, 2014 Judge of the First-tier Tribunal White granted permission to appeal finding it arguable the FtTJ had erred in his approach to Hadul Islam Pilot by identifying him as a sponsor when in fact he had been part of his entrepreneurial team and this may have led to the FtTJ making errors in relation to what documents had been submitted. The respondent filed a Rule 24 response dated September 25, 2014 disputing the ground.
4. The matter came before me on the above date and I took submissions from both the appellant and Mr Tarlow.

### **SUBMISSIONS**

5. The appellant submitted the FtTJ had erred as follows:
  - a. He typed his name as "Us" whereas it is "Uz".
  - b. He denied he had ever given oral or written evidence that Mr Pilot was his sponsor. He and Mr Pilot had presented a joint application and both predominantly on a third party sponsor and limited funds of their own.
  - c. He maintained that when he attended his interview he produced the bank letter and disputed the FtTJ's findings at paragraph [42].
  - d. His previous legal advisors were at fault for not providing him with the correct advice over what documents needed to be submitted and he accepted the correct bank document was not submitted with the application.
6. Mr Tarlow submitted the FtTJ recorded in his determination that the appellant told him Mr Pilot was a sponsor and this was noted in paragraphs [20] and [34]. He was entitled to say Mr Pilot was a sponsor. In any event, the FtTJ rejected his account on the submission of documents and made a clear finding on the bank letter at paragraph [43]. The appellant's submission was no more

than a disagreement and unless the finding was perverse there was no reason to interfere with the decision. The fact he may have been badly advised did not mean the Tribunal should allow his appeal.

7. The appellant re-iterated the points he had made in the grounds of appeal and I informed the parties I would reserve my decision.

### **MY FINDINGS ON ERROR IN LAW**

8. The appellant and Mr Pilot both submitted applications to extend their stays as Tier 1 (Entrepreneurial) migrants and both were refused.
9. In his own application form the appellant listed funds that were available to him. In order to rely on those funds the appellant must satisfy the requirements of paragraph 41-SD of Appendix A of the Immigration Rules.
10. The appellant was invited to an interview that was held on April 26, 2013 and the interview record, as set out in the FtTJ's determination, referred to him producing a number of documents including a "bank statement" and the FtTJ found at paragraph [42] that he had not produced the required bank letter but had in fact produced a bank statement.
11. This issue is the cornerstone of the appeal along with his submission that the FtTJ erred in mistakenly identifying Mr Pilot as a sponsor and to a lesser extent incorrectly recording his name.
12. With regard to the slight error in his name whilst this is unfortunate I do not find this is or contributes to any possible error in law. He recorded part of his name as "Us" when it is in fact "Uz. This makes no difference to the decision.
13. There is an issue over whether the appellant referred to Mr Pilot in oral evidence as his sponsor. The FtTJ's notes are not VERY legible although following careful consideration there is some evidence that he recorded that he was sponsored by Mr MA and Mr Pilot as he records in his notes "2 sponsors Mr MA and Mr Pilot".
14. The FtTJ was therefore entitled to refer to this in his determination. Whilst Mr Pilot was originally his partner the application refers to Mr Pilot's funds so there is further evidence that some of Mr Pilot's funds were being relied on and the respondent referred to these funds in the refusal letter.

15. I do not therefore find any error in the reference to Mr Pilot as a sponsor. What is clear is that at the date of hearing Mr Pilot was no longer a partner in the proposed enterprise as his application had been refused and he had not appealed that decision as he had no right of appeal. If his financial resources were needed then the Rules would also apply to him. As it happens the appellant told me he did not seek to rely on his funds but merely Mr Ma's funds
16. The real issue centres on the document that can be found in the appellant's bundle at section 7.
17. The FtTJ had the papers before him and took oral evidence and had regard to the interview. He made a finding that was open to him. The appellant disagrees with that finding and invited me to find that he had produced the document. I am not re-hearing the evidence but merely deciding if there was an error in law.
18. Whilst the appellant may have been poorly advised (I make no finding on this) I can find nothing amiss with the determination. The finding on Mr Pilot being referred to as a sponsor was open to him as he noted the appellant's evidence on this. The finding on the production of the bank letter was similarly open to him. He rejected the appellant's evidence and the appellant's challenge on this point amounts to nothing more than a mere disagreement.
19. There is no error in law.

### **DECISION**

20. There is no material error of law. The original decision shall stand.
21. Under Rule 14(1) The Tribunal Procedure (Upper Tribunal) Rules 2008 (as amended) the appellant can be granted anonymity throughout these proceedings, unless and until a tribunal or court directs otherwise. No order has been made and no request for an order was submitted to me.

Signed:

Dated: **October 30, 2014**

Deputy Upper Tribunal Judge Alis

### **TO THE RESPONDENT**

I do not make a fee award as the application did not succeed.

Signed:

Dated: **October 30, 2014**

Deputy Upper Tribunal Judge Alis