



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

Appeal Number: IA/24275/2014

**THE IMMIGRATION ACTS**

**Field House**

**Decision & Reasons  
Promulgated  
On 5<sup>th</sup> February 2015**

**Determined on the papers**

**Before**

**UPPER TRIBUNAL JUDGE O'CONNOR**

**Between**

**MD QUAMRUL HASAN**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**DECISION AND REASONS**

1. The appellant is a national of Bangladesh born 5 October 1984. He appealed to the First-tier Tribunal against a decision made by the Respondent on 14 May 2014. It is not in dispute that on 20 August 2014 the Respondent withdrew the immigration decision of 14 May 2014.
2. As a consequence of the operation of rule 17(2) of the Asylum and Immigration Tribunal (Procedure) Rules 2005 “an appeal shall be treated as withdrawn of the respondent notifies the Tribunal that the decision to which the appeal relates has been withdrawn.” The evidence before me discloses that the First-tier Tribunal was notified of the withdrawal of the immigration decision by fax on 20 August. As a consequence, the appellant’s appeal ought to have been treated as having been withdrawn.
3. However, First-tier Tribunal Horvath, in ignorance of the Secretary of State’s withdrawal of the immigration decision, determined the appellant’s appeal by way of a decision promulgated on the 20 October 2014. She had no jurisdiction to do so.

4. Consequently, the determination of Judge Horvath is set aside, there having been no appeal before her to determine. None of the findings made therein are to be preserved.
5. By section 12 of the Tribunals, Courts and Enforcement Act 2007 if the Upper Tribunal sets aside a decision of the First-tier Tribunal it must either remit the case to the First-tier Tribunal for further decision or re-make the decision for itself. The Act permits of no other course of action. Consequently, if it is necessary for me to do so in order to formally dispose of the appeal before the Upper Tribunal in accordance with the 2007 Act, I re-make the decision dismissing the appellant's appeal solely because of a want of jurisdiction. I have not considered the merits of the appellant's case in coming to this conclusion and nothing in this decision should be construed as casting any light on my view as to such.

### **Notice of Decision**

The determination of the First-tier Tribunal is set aside and for the reasons set out above the appellant's appeal before the Upper Tribunal is dismissed.

Signed:

A handwritten signature in blue ink, appearing to read 'Michael O'Connor', written over a faint rectangular stamp.

Upper Tribunal Judge O'Connor  
Date: 5 February 2015