



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

Appeal Number: IA/20837/2015

THE IMMIGRATION ACTS

Heard at Field House

On 20 October 2017

**Decision & Reasons
Promulgated**

On 27 October 2017

Before

DEPUTY UPPER TRIBUNAL JUDGE HILL QC

Between

**MS WUDE SALOMON
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Eric Fripp, DWFM Beckman Solicitors

For the Respondent: Mr P Nath, Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal from the decision of First-tier Tribunal Judge Abebrese promulgated on 27 January 2017. It concerns a female appellant born on 12 August 1985.
2. The point which I have taken as a preliminary to any of the other more substantive matters raised in the grounds of appeal is that there is on the face of the decision a self-evident disparity between the

assertion in paragraph 1 that the appellant is a citizen of Eritrea and the finding in paragraph 19 that the appellant is a citizen of Ethiopia.

3. What appears to have moved the First-tier Tribunal Judge from the assertion in paragraph 1 to that in paragraph 19 is the apparent adoption of a conclusion reached by a different decision in the First-tier Tribunal determining an appeal in 2010.
4. This is a case where nationality is crucial and the absence of proper (or indeed any) reasoning as to why the First-tier Tribunal ultimately reach the conclusion which it did on nationality, rejecting its prior assertion, is crucial to the disposal of all the other matters raised in the appeal.
5. Mr Nath for the Secretary of State properly concedes this morning that notwithstanding what is said in the Rule 24 letter, the unexplained inconsistent and insufficiently reasoned conclusion on nationality is such that he cannot in conscience seek to uphold the decision of Judge Abebrese.
6. There being so central a failure in the First-tier Tribunal, this matter needs to be looked at afresh. All other discussion in the decision is predicated upon the unexplained shift of judicial finding from citizenship of Eritrea to citizenship of Ethiopia. There is nothing in the findings which can be preserved; nor would it be appropriate to begin afresh in the Upper Tribunal, not least because were the finding to be adverse to the appellant she would have lost a right of appeal in relation thereto.
7. Having reached that view on this preliminary point, it is unnecessary and inappropriate for me to say any more of the other grounds which might have been developed today or to express a view on the underlying merit of the case. There is a material error of law in the First-tier Tribunal's determination. That decision must be set aside. The appeal will be remitted to the First-tier Tribunal to be heard by a judge other than (i) Judge Abebrese and (ii) Judge Doyle who dealt with the matter in 2010.
8. It is not for me to dictate how the First-tier Tribunal runs its procedure, but this is a case which might benefit from having a pre-hearing review where the stance of the Secretary of State and that of the appellant can be looked at and directions made to ensure that all relevant issues are addressed and time is not wasted on matters of irrelevance. Beyond that I say no more.

Notice of Decision

- (1) There being a material error of law, the First-tier Tribunal's determination is set aside.

