



**Upper Tribunal  
(Immigration and Asylum Chamber)  
EA/03509/2016**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House  
Reasons Promulgated  
On 23 March 2018  
2018**

**Decision &  
On 11 April**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE RAMSHAW**

**Between**

**MR MD MOHIN UDDIN  
(ANNONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: No appearance

For the Respondent: Mrs Z Kiss, a senior Home Office presenting officer

**DECISION AND REASONS**

**Introduction**

1. I checked the court file and noted that the appellant was served at the last address on file with the notice of hearing. I decided that it was in the interests of justice to proceed with the hearing.
2. I do not need to set out the background to this case because the respondent accepts that there was an error of law in the First-tier

Tribunal's decision. The decision of the respondent that was appealed against was the refusal to issue a residence card to the appellant as an extended family member under the Immigration (European Economic Area) Regulations 2006.

3. The First Tier Tribunal concluded that it had no jurisdiction to entertain the appeal following the case of **Sala (EFMs: Right of Appeal) [2016] UKUT 00411**.
4. In the light of **Khan v Secretary of State for the Home Department [2017] EWCA Civ 1755**, the First-tier Tribunal was wrong in law to conclude that it did not have jurisdiction to hear the appeal.
5. I therefore set aside the decision of the First-tier Tribunal, pursuant to section 12(2)(a) of the Tribunals, Courts and Enforcement Act 2007.
6. Judge Plumtree did not decide any issues of fact. I therefore remit the case to the First-tier Tribunal at Harmondsworth to be heard by any judge other than judge Plumtree on the next available date.

### **Decision**

The appellant's appeal against the decision of the First-tier Tribunal is allowed. The case is remitted to the First-tier Tribunal at Harmondsworth to be heard on the next available date.

Signed P M Ramshaw  
2018

Date: 9 April

Deputy Upper Tribunal Judge Ramshaw