



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

Appeal Number: EA/10889/2016

THE IMMIGRATION ACTS

**Determined on the papers
On 2nd November 2018**

**Decision & Reasons Promulgated
On 9th November 2018**

Before

UPPER TRIBUNAL JUDGE JACKSON

Between

**HASUMATI YASHVANTLAL
(ANONYMITY DIRECTIONS NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

1. On 4th October 2018, directions were issued to the effect that, unless submissions were made to the contrary, the Upper Tribunal was minded to find a material error of law in the First-tier Tribunal's failure to take into account the fact that the Appellant arrived in the United Kingdom with a family permit, the Respondent having issued the same on the basis that he was satisfied as to dependency outside of the United Kingdom, there being no issue with the validity of the family permit and no issue as to present dependency. The Upper Tribunal was therefore minded to set aside the decision of the First-tier Tribunal, preserving the findings made in respect of present dependency and substitute the decision on the appeal to allow the appeal.
2. There has been no response to those directions within the time period allotted from either party.

3. For the reasons set out in the directions issued and summarised above, I am satisfied that there was an error of law in the decision of the First-tier Tribunal such that it should be set aside. The decision is remade to allow the appeal on the basis of Ewulo (effect of family permit – OFM) [2012] UKUT 238, that the Appellant had arrived with a family permit and therefore the Respondent had accepted prior dependency outside of the United Kingdom and on the basis of preserved findings of fact in the First-tier Tribunal of present dependency, the Appellant has established that she meets the requirements of regulation 7 of the Immigration (European Economic Area) Regulations 2006.

Notice of Decision

The making of the decision of the First-tier Tribunal did involve the making of a material error of law. As such it is necessary to set aside the decision.

I set aside the decision of the First-tier Tribunal and substitute it with a decision allowing the appeal under the Immigration (European Economic Area) Regulations 2006.

No anonymity direction is made.

Signed
2018



Date 2nd November

Upper Tribunal Judge Jackson