



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

Appeal Number: IA/32949/2015

THE IMMIGRATION ACTS

At Field House

On 30 January 2018

**Decision &
Promulgated**

On 31 January 2018

Reasons

Before

UPPER TRIBUNAL JUDGE CANAVAN

Between

AMUDALATA TEMITOPE AMODU

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

Respondent

DECISION AND REASONS

1. The Upper Tribunal granted the appellant permission to appeal against the decision of First-tier Tribunal Judge N. M. Paul, who dismissed her appeal against the respondent's decision to refuse to issue a residence card as the extended family member of an EEA national with reference to the Upper Tribunal decision in *Sala (EFMs: right of appeal)* [2016] UKUT 0411.
2. Upper Tribunal Judge Pitt granted permission in an order dated 21 December 2017 because the Court of Appeal in *Khan v SSHD* [2017] EWCA Civ 1755 found that *Sala* was wrongly decided. She was minded to find an error of law, set aside the decision and remit the case to the First-tier Tribunal. The Upper Tribunal gave the parties seven days from the date

her decision was sent to file an objection to this course of action in writing. No objections to this course of action have been received.

3. The Tribunal finds that the First-tier Tribunal decision to dismiss the appeal for want of jurisdiction in light of *Sala* involved the making of an error of law.
4. The decision is set aside and the appeal will be remitted to the First-tier Tribunal for a fresh hearing.
5. The hearing listed in the Upper Tribunal on **31 January 2018** will be vacated.

DECISION

The First-tier Tribunal decision involved the making of an error on a point of law

The decision is set aside and the appeal will be remitted for a fresh hearing

Signed  Date 30 January 2018
Upper Tribunal Judge Canavan Sullivan