



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: IA/25825/2013

THE IMMIGRATION ACTS

Heard at Field House  
on 12 March 2014

Determination Promulgated  
On 26 March 2014  
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Before  
DEPUTY UPPER TRIBUNAL JUDGE DRABU CBE

Between  
MR MUHAMMAD ATIF MIRZA

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

ANONYMITY DIRECTION NOT MADE

DETERMINATION AND REASONS

**Representation:**

For the appellant:

Mr G Davison of Counsel instructed by Charles Simmons, Solicitors

For the Respondent:

Miss Everett, Senior Presenting Officer

1. The appellant is a national of Pakistan. He was born on 8 January 1985. His application to remain in the UK as a Tier 1 (Entrepreneur) was refused by the respondent on 11 July 2013 under Paragraph 245DD of Immigration Rules. His appeal against the decision was heard by Judge Elvidge, a Judge of the First tier Tribunal. It was dismissed for reasons set out in the determination promulgated on 3 January 2014. The appellant was granted permission to appeal to the Upper Tribunal on 31 January 2014 by Judge Sommerville, a Judge of the First tier. In granting permission the Judge said, "The grounds seeking permission contend that the FTJ erred in applying table 5 paragraph (d) rather than Paragraph 45 and 46(e). This is arguable."
2. At the hearing before me Mr Davison relying upon his written grounds of appeal asked that I find that the decision was in material error of law. Miss Everett agreed that the decision was indeed in material error of law as argued in the grounds of appeal.

3. The parties asked that I remake the decision and allow the appeal on its merits as the decision of the respondent had not been in accordance with the Immigration Rules. Having read the reasons for refusal given by the respondent for refusing the application and there having been raised no new issue against the appellant, I allow the appeal as requested by parties.
4. The appeal is allowed.

#### FEE AWARD

I order a full fee award as in my view the decision to refuse the application made by the appellant was wrong on facts and in law.

#### ANONYMITY DIRECTION

None has been sought and circumstances of the case do not warrant such direction.

Judge Drabu

Judge of the First Tier Tribunal sitting as Deputy Judge of the Upper Tribunal.

22 March 2014