



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

Appeal Number:  
VA/00762/2013

**THE IMMIGRATION ACTS**

**Heard at: Manchester**

**Determination  
Promulgated**

**On: 30<sup>th</sup> June 2014**

**On: 3<sup>rd</sup> July 2014**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE BRUCE**

**Between**

**Entry Clearance Officer, Islamabad**

Appellant

**and**

**Azhar Hussain  
(no anonymity order made)**

Respondent

For the Appellant: Ms Pickering, Counsel instructed by Carter Law  
Solicitors

For the Respondent: Ms Johnstone, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The Respondent is a national of Pakistan date of birth 31<sup>st</sup> December 1967. On the 8<sup>th</sup> January 2014 the First-tier Tribunal (Judge Heynes) allowed his appeal against the Entry Clearance Officer's decision to refuse him entry clearance as a family visitor. The Secretary of State now has permission to appeal against that decision.
2. The Respondent had made his application for entry clearance on the basis that he wanted to come to the UK to visit his brother Munawar Hussain. The application was refused on the 19<sup>th</sup> November 2012 on

the grounds that the Entry Clearance Officer could not be satisfied that the Respondent was a genuine visitor who intended to leave the UK at the end of his trip. The ECO did not accept that he had been self-employed since 1995 as he claimed. That was because there was a lack of evidence to support his application. There was evidence of funds held in a bank account but the ECO could not be satisfied, on the evidence before him, that such funds had accumulated from the Respondent's self-employment income or that it was genuinely available to him. The ECO noted the assertion that the Respondent would be returning to his wife in Pakistan, but in the absence of any evidence about her, where she was or what her intentions were the ECO did not attach much weight to that. There was no evidence to show prior compliance with immigration control. In all the circumstances the ECO found the Respondent had not discharged the burden of proof.

3. Following receipt of the grounds of appeal the decision was reviewed by an Entry Clearance Manager. In a decision dated the 17<sup>th</sup> June 2013 the ECM states that he has conducted checks on the tax documents provided and these do show the Respondent to have registered his business for tax since 2010. The ECM finds there to be no evidence that the business has operated since 1995 as claimed and asks that the First-tier Tribunal bear in mind the discrepancies between the Respondent's evidence and the records held by the Pakistani Federal Bureau of Tax. The ECM maintained that there was no documentary evidence to support the Respondent's claimed level of income.
4. On appeal the First-tier Tribunal was presented with documentary evidence as to the Respondent's business that the determination describes as "poorly translated and apparently nonsensical". At paragraph 19-20 the determination reads: "the quality of the translations is so poor that I would not have come to the conclusion that the Appellant is in business as claimed were it not for the concession made in that respect. Given that it was made, I am satisfied that there is sufficient incentive for the Appellant to return". On that basis the appeal was allowed.

### **Error of Law**

5. The grounds of appeal appear to suggest that the First-tier Tribunal in effect erred for failing to go behind the concession made by the ECM. If the grounds were so narrowly framed there would be no merit at all in this appeal. However Ms Johnstone illustrated in her submissions that in fact the concession made by the ECM was only partial. The ECM accepts that the Appellant's business has been registered since 2010 for payment of tax. The ECM was clearly not

satisfied as to the claimed income from the Appellant's business nor indeed whether he has actually paid any tax.

6. In those circumstances the Appellant was yet to establish that he did have a meaningful economic resource in the form of his business which might give him an incentive to return to Pakistan at the end of his trip to the UK. It was an error of law to allow the appeal simply on the basis of the limited concession. I would also observe that the refusal notice raises wider issues about the Appellant's overall social circumstances in Pakistan and the claimed reasons for the trip. Evaluating intention will almost always involve a rounded assessment of all of these kinds of factors.

### **Decisions**

7. The decision of the First-tier Tribunal contains an error of law and it is set aside.
8. Due to the extent of judicial fact finding required the appeal is remitted to the First-tier Tribunal in order for it to be re-made.

Deputy Upper Tribunal Judge Bruce  
30<sup>th</sup> June 2014