



**Upper Tribunal
(Immigration and Asylum Chamber)
EA/03838/2015**

Appeal no:

THE IMMIGRATION ACTS

**At Field House
on 20.11.2017**

**Decision signed:
21.11.2017
Sent out: 22. 11. 2017**

Before:

Upper Tribunal Judge John FREEMAN

Between:

Nneka Theresa CHIKEZIE

Appella

nt
and

The Secretary of State for the Home Department

ndent

Respo

Representation:

For the appellant: *Matthias Ume-Ezeuke* (counsel instructed by MJ Solomon & Partners)

For the respondent: Mr Tom Wilding

DECISION AND REASONS

1. This is an appeal, by the appellant, against the decision of the First-tier Tribunal (Judge Buster Cox), made at Taylor House without a hearing (the appellant not having asked for one) on 9 February 2017, to dismiss a family member residence card appeal by a citizen of Nigeria, born in 1980, and married to a citizen of the Netherlands.
2. On the facts as found by the judge, the sponsor was living here, and registered in this country, paying tax and National Insurance as a self-employed person. However his business involved buying motor vehicle parts for a company in Nigeria, from one in the Netherlands, and he did no

NOTE: (1) *no anonymity direction made at first instance will continue, unless extended by me.*

(2) *persons under 18 are referred to by initials, and must not be further identified.*


actual business in this country. The judge took the view that he was not exercising Treaty rights here, though he noted that the Home Office had previously accepted that he was, and so dismissed the appeal.

3. The definition of self-employed person at reg. 4 (b) of the Immigration (European Economic Area) Regulations 2006 [the EEA Regulations] is hardly very illuminating:

“self-employed person” means a person who establishes himself in order to pursue activity as a self-employed person in accordance with Article 49 of the treaty on the Functioning of the European Union

4. Mr Wilding, having considered that article, and other relevant European Union legislation, took the view that, on the facts found by the judge, the appellant had to be accepted as coming within that definition. The judge’s point is an interesting one, and one which will no doubt have to be considered at length on some future occasion where the facts are in dispute; but the present appeal is allowed by consent.

Appeal allowed

A handwritten signature in black ink, appearing to be 'JLR', with a horizontal line extending to the right.

(a judge of the Upper
Tribunal)