



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

Appeal Number: EA/03655/2015

THE IMMIGRATION ACTS

**Field House
8 February 2018**

**Decision & reasons
Promulgated
On 13 February 2018**

Before

UPPER TRIBUNAL JUDGE JORDAN

Between

Ebet

Appellant

and

The Secretary Of State For The Home Department

Respondent

REASONS FOR FINDING AN ERROR OF LAW

1. On 18 December 2017 I granted permission in these terms:
 1. Given that the Court of Appeal has said in *Khan v Secretary of State for the Home Department & Anor* [2017] EWCA Civ 1755 (09 November 2017) that *Sala (EFMs: Right of Appeal)* [2016] UKUT 0411 (1AC) was wrongly decided and the First-tier Tribunal had jurisdiction to hear this appeal, I grant permission. The First-tier Tribunal Judge did not go on to decide the merits of the appeal.
 2. The respondent must serve and file a response to my grant of permission within 21 days of this order stating (i) whether the respondent agrees the First-tier Tribunal Judge's determination was in error (irrespective of the fact that it was inadvertent) and that permission to appeal should be granted; (ii) that the determination should be set aside and (iii) the decision be re-made in the First-tier

Tribunal. If the respondent considers this can be dealt with by consent, there will be no need for a hearing in the Upper Tribunal and an order will be made to that effect.

2. There has been no response to my proposal. The respondent has not indicated a disagreement with the course I proposed.

DECISION

- (i) The First-tier Tribunal Judge made an error on a point of law and I set aside the decision of the First-tier Tribunal.
- (ii) I direct that the appeal is remitted to the First-tier Tribunal for re-making.

Date: 13 February 2018
ANDREW JORDAN
JUDGE OF THE UPPER TRIBUNAL