



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

Appeal Number: EA/10446/2016

THE IMMIGRATION ACTS

**Heard at Bradford
On 13th March 2018**

**Decision & Reasons
Promulgated
On 10th April 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE KELLY

Between

**MR HAMDULLAH
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Hashmi, Counsel

For the Respondent: Mr M Diwnycz, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals against the decision of Designated Tribunal Judge Shaerf, promulgated on the 25th August 2017, to dismiss his appeal against refusal of his application for an EEA Residence Card as the extended family member of a person exercising European Community Treaty rights in the United Kingdom.
2. The judge dismissed the appeal for want of jurisdiction, following and applying the decision in Sala (EFMs: Right of Appeal) [2016] UKUT 00411 (IAC). Through no fault of Judge Shaerf, that transpires to have been an

error of law because it was subsequently held that Sala had been wrongly decided (Khan [2017] EWCA Civ 1755). It is therefore necessary to set aside his decision.

3. Given the basis upon which Judge Shaerf dismissed the appeal, the substantive merits have yet to be determined. It is therefore appropriate to remit the matter to the First-tier Tribunal where it will be heard afresh. For the convenience of the appellant, the appeal will now be heard at the Bradford Hearing Centre.

Notice of Decision

4. The appeal is allowed.
5. The decision of the First-tier Tribunal is set aside and will be heard afresh at the hearing centre in Bradford.

No anonymity direction is made.

Judge Kelly

Date: 9th April 2018

Deputy Judge of the Upper Tribunal