



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

**Appeal Number: IA/20772/2014
IA/21444/2014**

THE IMMIGRATION ACTS

Heard at Field House

On May 6, 2015

Determination

Promulgated

On May 8, 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE ALIS

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MR MUBEEN HAIDER
MISS ANAM MAQSOOD
(NO ANONYMITY DIRECTION MADE)**

Respondent

Representation:

For the Appellant: Mr Walker (Home Office Presenting Officer)

For the Respondent: Mr Malik, Counsel, instructed by Mayfair Solicitors

DETERMINATION AND REASONS

1. Whereas the original respondent is the appealing party, I shall, in the interests of convenience and consistency, replicate the nomenclature of the decision at first instance.

2. The Appellants are citizens of Pakistan. On September 14, 2013 the applied for leave to remain as Tier 1 (Entrepreneur) Migrants but their applications were refused by the respondent on April 28, 2014. At the same decisions were taken to remove them pursuant to section 47 of the Immigration, Asylum and Nationality Act 2006.
3. The appellants appealed these decisions on May 8, 2014 under section 82(1) of the Nationality, Immigration and Asylum Act 2002.
4. The appeals came before Judge of the First-tier Tribunal Russell (hereinafter referred to as the "FtTJ") on December 16, 2014, and in a decision promulgated on January 21, 2015 he allowed the appeal under the Immigration Rules.
5. The respondent lodged grounds of appeal on January 23, 2015 submitting the FtTJ had erred by failing to give adequate reasons for findings on material matters.
6. On February 25, 2015 Judge of the First-tier Tribunal Frankish gave permission to appeal finding the FtTJ may have erred by allowing the appeal because the specified evidence required did not exist.
7. The matter came before me on the above date and the parties were represented as set out above. The appellant were in attendance.
8. The First-tier Tribunal did not make an anonymity direction and pursuant to Rule 14 of The Tribunal Procedure (Upper Tribunal) Rules 2008 and I see no reason to alter that order

PRELIMINARY ISSUE

9. I raised with Mr Walker whether paragraph [3] of his grounds had any merit because there was evidence before the FtTJ that the financial requirements of table 4 of Appendix A had been met and this was not a matter that had been taken in the lower court. Mr Walker accepted that there was no merit to paragraph [3] of his grounds and went further by adding there was evidence of matters referred to in paragraph [4] of the grounds and that he was of the opinion that the FtTJ had reached a decision that was open to him.
10. In those circumstances I asked him did he intend to pursue the grounds further and he indicated he merely relied on the grounds.
11. Mr Malik endorsed the approach being adopted by Mr Walker and submitted that the permission should never have been given as the FtTJ had heard the evidence and made findings that the respondent now accepted were open to him.

FINDING ON MATERIAL ERROR OF LAW

12. Permission had been given but a full reading of the determination suggests the FtTJ had reservations about the application but concluded that on balance the rules were met. He had concerns about the proposed business but reminded himself that as long as the application complied with the Rules, and today Mr Walker accepted it did, then the appeal had to be allowed.
13. Turning to the grounds of appeal I find there is no merit to paragraph [3] of the grounds because it was accepted the funds had been invested. As regards paragraph [4] there was evidence of market research in the bundle of papers and the FtTJ had assessed the lack of reports against the fact the business was up and running and to use his words concluded that “where a business plan is being executed this is good evidence that the plan itself is genuine. The amounts involved suggest that the appellants treat the business plan as viable and are prepared to execute it and it is not therefore a made up enterprise”.
14. The FtTJ had concerns, which he expressed in paragraph [14] of his determination but he concluded the business was a credible and genuine business and therefore met the requirements of the Rules.
15. I see no basis to go behind that decision and I refuse this application.

DECISION

16. There was no material error. I uphold the original decision.

Signed:

Dated: **May 6, 2015**

Deputy Upper Tribunal Judge Alis

TO THE RESPONDENT FEE AWARD

No application was made to reverse the fee award decision.

Signed:

Dated: **May 6, 2015**

Deputy Upper Tribunal Judge Alis