



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

Appeal Number: EA/01229/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 26 January 2018**

**Determination & Reasons
Promulgated
On 15 March 2018**

Before

UPPER TRIBUNAL JUDGE ALLEN

Between

**SABYASACHI PAUL
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Hassan of Counsel, Hossain Law Associates
For the Respondent: Ms A Fijiwala, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Bangladesh. He appealed to the First-tier Tribunal against a decision of the respondent of 11 September 2015 refusing his application for a residence card as an extended family member of an EEA national. The judge, in light of the decision of the

Upper Tribunal in Sala [2016] UKUT 00411 (IAC) decided that there was no right of appeal and no jurisdiction in the Tribunal to consider the matter before it.

2. Permission to appeal against that decision was granted by a Judge of the Upper Tribunal in light of the decision in Khan [2017] EWCA Civ 1755 which found that Sala had been wrongly decided.
3. In a Rule 24 response, upon which Ms Fijiwala, who appeared on behalf of the respondent relied, an adjournment was sought until the matter was resolved by the forthcoming decision of the Supreme Court in SM (Algeria).
4. I conclude however that the preferred option in light of the fact that Khan remains good law, is for the matter to be remitted for a hearing in the First-tier Tribunal. It is of course open to the respondent if she so wishes to seek an adjournment from the First-tier Tribunal pending the decision in SM (Algeria).

No anonymity direction is made.



Signed

Date

Upper Tribunal Judge Allen