



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

HU/07269/2017

THE IMMIGRATION ACTS

Heard at Edinburgh
On 30 January 2020

Decision & Reasons Promulgated
On 4 February 2020

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

ARINZE IKECHUKWU NWOKOLO

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr H Ndubuisi, of Drummond Miller, Solicitors
For the Respondent: Mr A Govan, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Nigeria, born on 7 February 1979. On 27 June 2017 his application for leave to remain in the UK was refused due to discrepancies between his declarations of income to the respondent (UKBVI) and to HMRC.
2. FtT Judge Handley dismissed the appellant's appeal by a decision promulgated on 14 February 2018.
3. The appellant petitioned the Court for reduction of the UT's refusal of permission to appeal. On 28 November 2019 the Vice President of the UT granted permission in light of the Court's interlocutor and the opinion of Lord Arthurson.

4. The FtT found that the alleged discrepancies, on which the case turned, were not explained by income falling over two tax years, and concluded at [24] that the appellant misled the respondent by inflating his earnings.
5. With his grounds of appeal to the UT the appellant produced a forensic accountancy report, which had not been before the FtT.
6. The Court at [16] expressed considerable sympathy for the position in which the FtT had found itself. Nevertheless, it thought that as a specialist tribunal it should have been able to grasp the distinction between a business accountancy year and the tax year; a point with which the UT in refusing permission had failed to grapple, even with the report before it.
7. Mt Govan argued that the FtT made no error on the case as it stood before it. He said that the tribunal was specialised in immigration and asylum law, not in accountancy. However, it is plain that there was error, even on the basis of what the Court described as “the raw financial material”.
8. The decision of the FtT therefore fell to be set aside.
9. Mr Govan did not make any submission to counter the forensic report.
10. It was common ground that but for the finding of deceit, which cannot now be supported on the evidence, the appellant’s application for leave to remain would have been granted, and in this area of the rules, that makes out a case on human rights grounds.
11. The appeal, as brought to the FtT, is allowed.
12. No anonymity direction has been requested or made.



30 January 2020
UT Judge Macleman