



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

Appeal Number: IA/28340/2013

**THE IMMIGRATION ACTS**

**Heard at Glasgow  
on 16<sup>th</sup> June 2014**

**Determination  
promulgated  
On 19<sup>th</sup> June 2014**

**Before**

**UPPER TRIBUNAL JUDGE MACLEMAN**

**Between**

**AYYAPPAN THIRUGNANA SAMBANDAM**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

For the Appellant: Mrs J Moore, of Drummond Miller, Solicitors  
For the Respondent: Mr A Mullen, Senior Home Office Presenting Officer

No anonymity order requested or made

**DETERMINATION AND REASONS**

1. The Appellant is a citizen of India, born on 2<sup>nd</sup> January 1988. He applied for leave to remain as an Entrepreneur, along with his business colleague

M F J Hussain. Both appealed against refusal. In a joint determination, promulgated on 26<sup>th</sup> March 2014, First-tier Tribunal Judge A G M Baldwin allowed the appeal of Mr Hussain (IA/28339/2013) on the grounds that the Respondent's decision was unfair and not in accordance with the law, to the limited extent of inviting the Respondent to look again at his application. However, the judge thought that the shortcomings in the present Appellant's application were more numerous, and that the Respondent had not acted unfairly or unlawfully. His appeal was dismissed.

2. The Appellant appealed to the UT on the grounds that the items missing from his application were such as should have resulted in a similar opportunity being extended to him.
3. The Respondent filed a Rule 24 reply, dated 11<sup>th</sup> April 2014, to the grant of permission. This observes that as the Appellant had been seeking to rely on his Entrepreneur partner's funds, and the funds were not held in a joint account, there was no prospect of meeting the requirements of the Rules anyway, and so any error could not be material.
4. Mrs Moore acknowledged that the observation in the Rule 24 reply has some force, although it is a point not noted by either side up to that stage. She sought to amend the Grounds of Appeal in that light, and argued that this reflected a defect in the application which the Appellant should have been invited to put right, and that the outcome in the present proceedings should similarly be a remit to the Respondent. (The co-Appellant's case remains outstanding before the Respondent for further decision.)
5. Mr Mullen acknowledged that the original decision-maker looked at the case on an incorrect basis. The Appellant's partner is not a third party source of funds. Rather, this is an entrepreneurial team of two directors of one limited company. He agreed that the appropriate outcome was for this case to be remitted to the Respondent for a fresh decision.
6. The determination of the First-tier Tribunal, for the above reasons and of consent, is **set aside**. The appeal, as originally brought to the First-tier Tribunal, is **allowed** to the following extent: the Respondent's decision was not in accordance with the law, and the original application remains outstanding, along with the co-Appellant's application, for a fresh decision by the Respondent.



18 June 2014  
Judge of the Upper Tribunal