



IAC-FH-AR-V1

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

Appeal Number: IA/22723/2014

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 14 May 2015**

**Decision & Reasons Promulgated  
On 10 August 2015**

**Before**

**LORD MATTHEWS, SITTING AS AN UPPER TRIBUNAL JUDGE  
UPPER TRIBUNAL JUDGE DAWSON  
DEPUTY UPPER TRIBUNAL JUDGE SAINI**

**Between**

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

Appellant

**and**

**MOIZUDDIN AHMED  
(ANONYMITY DIRECTION NOT MADE)**

Respondent

**Representation:**

For the Appellant: Mr S Whitwell, Home Office Presenting Officer

For the Respondent: No representation

**DECISION AND REASONS**

1. This is the respondent's appeal in the case of Moizuddin Ahmed. He appealed against the decision of the Secretary of State on 12 May 2014 which refused his application for leave to remain in the United Kingdom as a Tier 4 (General) Student Migrant and directed his removal to India.

2. That appeal was dealt with by the First-tier Tribunal on 5 February 2015 and was successful in terms of the Immigration Rules, there being no appearance by either party.
3. It transpires though that the appellant actually left the country on 3 January 2015 and prior to that had indicated that he wished formally to withdraw his appeal application. It would appear that no one including the respondent was aware that this was the case.
4. It follows that both from his formal withdrawal of the appeal and as a matter of law from Section 104(4) of the 2002 Act that the appeal has been abandoned. Therefore the First-tier Tribunal had no jurisdiction to deal with the matter. This is a separate appeal against an appeal which should never have been allowed. We do have jurisdiction to entertain this matter. We allow the appeal of the respondent and set aside the decision of the First-tier Tribunal which should never have been made in the first place.

**Notice of Decision**

The appeal is allowed.

No anonymity direction is made.

LORD MATTHEWS  
Sitting as an Upper Tribunal Judge  
(Immigration and Asylum Chamber)

Date: