U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 29569524

Date: JAN. 22, 2024

Appeal of California Service Center Decision

Form I-129, Petition for a Nonimmigrant Worker (L-1A Manager or Executive)

The Petitioner states that it is an importer and exporter of medical and dental supplies and equipment. It seeks to continue the Beneficiary's temporary employment as chief executive officer under the L-1A nonimmigrant classification for intracompany transferees.[1] *See* Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L).

The Director of the California Service Center denied the petition, concluding that the Petitioner did not establish that: 1) it had been doing business for one year prior to filing this petition;[2] and 2) the Beneficiary would be employed in a managerial or executive capacity within one year of the petition's approval. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal because the Petitioner did not establish that it had been doing business for one year prior to filing this petition pursuant to 8 C.F.R. § 214.2(l)(1)(14)(ii)(B).[3] Because the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding the remaining ground for denial. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

The record contains various business documents, such as sales contracts, business invoices, packing slips, and shipping receipts, which show that the Petitioner engaged in business transactions during an

[1] The Petitioner previously filed a "new office" petition on the Beneficiary's behalf. That petition was approved for the one-year period from March 15, 2022, until March 14, 2023. A "new office" is an organization that has been doing business in the United States through a parent, branch, affiliate, or subsidiary for less than one year. 8 C.F.R. § 214.2(l)(1)(ii)(F). The regulation at 8 C.F.R. § 214.2(l)(3)(v)(C) allows a "new office" operation one year within the date of approval of the petition to support an executive or managerial position.

[2] The record shows that this petition was filed on March 8, 2023.

[3] The term "doing business" is defined as the regular, systematic, and continuous provision of goods and/or services and does not include the mere presence of an agent or office. 8 C.F.R. § 214.2(l)(1)(ii)(H).

eight-month period from July 2022 to February 2023. The record also includes tax and bank documents as well as the Petitioner's unaudited financial statement for 2022 showing gross earnings of $5000. Despite acknowledging the Petitioner's submission of various supporting documents, the Director concluded that the Petitioner did not provide sufficient evidence establishing that it had been doing business for one year prior to filing the instant petition.

We adopt and affirm the Director's decision. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); *Chen v. INS*, 87 F.3d 5, 8 (1st Cir. 1996) (joining eight circuit courts in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case). Although the record shows that the Petitioner engaged in various sales and purchase transactions in the eight-month period leading up to the filing of this petition, it does not contain evidence showing that the Petitioner engaged in the purchase or sale of goods prior to July 2022.

On appeal, the Petitioner asserts that it provided bank statements, tax documents, and other documents that establish its "substantial financial viability." We note, however, that the Director did not deny this petition based on the Petitioner's inability to establish that it is financially viable; rather, the petition was denied based in part on the Petitioner's inability to provide sufficient documentation to show that it had been doing business for a full year prior to filing this petition. And although the Petitioner argues that the Director erroneously overlooked its business plan as "compelling evidence" of the company's financial status, this argument does not address the critical issue of whether the Petitioner provide sufficient evidence to show that it was doing business for one full year prior to filing this petition.

Because the Petitioner did not establish that it had been selling and purchasing goods in a regular, systematic, and continuous manner since March 2022, one year prior to this petition's date of filing, the Petitioner did not demonstrate that it meets the eligibility criteria for the immigration benefit sought in this matter.

ORDER: The appeal is dismissed.