U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF S-A-, INC.

DATE: OCT. 19, 2018

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a wholesaler of yarn-dyed fabric and shirts, seeks to temporarily employ the Beneficiary as its managing director under the L-1A nonimmigrant classification for intracompany transferees. Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L). The L-1A classification allows a corporation or other legal entity (including its affiliate or subsidiary) to transfer a qualifying foreign employee to the United States to work temporarily in a managerial or executive capacity.

The Director of the Vermont Service Center denied the petition, concluding that the record did not establish, as required, that the Beneficiary: (1) has been employed by a qualifying entity abroad for at least one year in the three years preceding the filing of the petition; (2) has been employed abroad in a managerial or executive capacity; (3) will be employed in the United States in a managerial or executive capacity; and (4) is qualified to perform the intended services in the United States based on his prior education, training, and employment.

On appeal, the Petitioner contends that the Director overlooked evidence and made both factual and legal errors in denying the petition. The Petitioner asserts that the Beneficiary has been directing a major function or component of the parent organization in a managerial or executive capacity and would be employed in a similar capacity in the United States.

Upon *de novo* review, we will sustain the appeal.

The record demonstrates that the Beneficiary has more than one year of employment abroad with the Petitioner's foreign parent company, and that he is well-qualified to perform the intended services in the United States based on his educational and employment background, which includes 17 years of experience with the Petitioner's multinational organization. Further, the Petitioner has established that the Beneficiary has been employed abroad, and will be employed in the United States, in an executive capacity as defined at section 101(a)(44)(B) of the Act.

Specifically, the Petitioner established that the Beneficiary has been and will be responsible for directing sales and market development for the group's textile products in North America, an essential function of the organization. The record further demonstrates that the Beneficiary's duties have been and would be primarily executive in nature, that he establishes the goals, policies and

objectives for the North American market, exercises wide latitude in discretionary decision-making, and reports to the parent company's chief executive and board of directors. Finally, the record establishes that subordinate operational and administrative staff in the U.S. and abroad will carry out the majority of the non-executive tasks associated with the sales and market development function in North America.

ORDER: The appeal is sustained.

Cite as *Matter of S-A- Inc.*, ID# 1472472 (AAO Oct. 19, 2018)