U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF I-, INC.

DATE: SEPT. 24, 2019

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, an IT consulting and services business, seeks to extend the Beneficiary's temporary employment as vice president - financial services 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 Texas Service Center denied the petition, concluding that the record did not establish, as required, that the Petitioner has a qualifying relationship with the Beneficiary's employer abroad, and that the Beneficiary would be employed in a managerial or executive capacity in the United States under the extended petition.

On appeal the Petitioner asserts that the evidence of record establishes its qualifying relationship with the foreign entity and that the Beneficiary has been and will continue to be employed in a qualifying managerial position in the United States.

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

To establish a qualifying relationship the Petitioner must establish that it is the parent, or a branch, or an affiliate, or a subsidiary of the Beneficiary's employer abroad. See 8 C.F.R. § 214.2(l)(ii)(G)(*1*). In finding that the Petitioner did not establish a qualifying relationship with the Beneficiary's employer abroad the Director mistakenly stated that the Petitioner was a subsidiary of the foreign company. The Director cited an entry on the Petitioner's federal income tax return stating that more than 86% of its voting stock was owned by a company in [redacted] and concluded that the record did not support the Petitioner's claim to be a subsidiary of the Beneficiary's foreign employer in India. However, the Petitioner actually claims to be the parent of the Beneficiary's foreign employer, and that relationship is confirmed by the documentation in the record. Thus, the record establishes a qualifying relationship between the Petitioner and the Beneficiary's employer abroad.

We also find that the Petitioner has established by a preponderance of the evidence that the Beneficiary will be employed in the United States in a managerial capacity as defined at section 101(a)(44)(A) of the Act. The record does not support the Director's conclusion that non-qualifying

tasks will constitute the primary share of the Beneficiary's duties. Rather, the Petitioner describes the Beneficiary's role as one in which he is primarily responsible for managing a significant part of the company's financial services component, which is one of its three business units. The record indicates that the Beneficiary oversees a U.S. team comprising approximately 14 members, including seven direct employees. In addition the Beneficiary has oversight responsibilities with regard to numerous employees of the foreign entity, who support the financial services component managed by the Beneficiary. In short, the Beneficiary has a substantial subordinate infrastructure sufficient to relieve him from primarily performing operational tasks. The Petitioner has established, therefore, that the Beneficiary's job duties will be primarily managerial in nature.

The appeal will be sustained because the Petitioner has established that it has a qualifying relationship with the Beneficiary's foreign employer and that it will employ the Beneficiary in a managerial capacity under the extended petition.

ORDER: The appeal is sustained.

Cite as *Matter of I- Inc.*, ID# 4667522 (AAO Sept. 24, 2019)