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U.S. Citizenship  
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File: SRC 04 081 52261 Office: TEXAS SERVICE CENTER Date: NOV 19 2007

IN RE: Petitioner:  
Beneficiary:

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

  
Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was initially approved by the acting director, Texas Service Center (TSC). The acting director subsequently revoked the approval on the grounds that the petitioner failed to establish that (1) it has a qualifying relationship with the beneficiary's claimed foreign employer; or (2) the beneficiary has been or will be employed in the United States in a qualifying managerial or executive capacity. The matter is now before the Administrative Appeals Office (AAO) on appeal. The decision of the director will be withdrawn and the case will be remanded for further consideration and action.

The petitioner filed this nonimmigrant petition seeking to extend the employment of its president as an L-1A nonimmigrant intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner, a corporation formed under the laws of the State of Texas, claims to operate a convenience store pursuant to an assigned lease. The petitioner also asserts that it is an affiliate of [REDACTED] located in Mumbai, India, based upon the beneficiary's claimed majority ownership and control of both entities.

On January 20, 2005, the acting director sent a Notice of Intent to Revoke (NOIR), providing the petitioner thirty (30) days to submit additional evidence in support of its petition. On June 22, 2005, noting that no response had been received to the NOIR, the acting director revoked the petition concluding that the petitioner failed to establish that (1) it has a qualifying relationship with the beneficiary's claimed foreign employer; or (2) the beneficiary has been or will be employed in the United States in a qualifying managerial or executive capacity.

On appeal, counsel asserts that a response to the NOIR was sent and that it was received by the TSC on February 22, 2005. In support of this claim, counsel submits a photocopy of the response as well as Federal Express signature delivery confirmation.

Upon review, the AAO finds that the petitioner in this matter has established that it is more likely than not the TSC received the response to the NOIR within the required time period. As it is clear that the acting director's decision did not consider this response, the decision of the acting director must be withdrawn, and the matter must be remanded to the acting director for further action. Upon remand, the acting director is directed to review the response submitted by counsel on behalf of the petitioner and render a new decision after reviewing and considering this additional evidence.

**ORDER:** The decision of the director is withdrawn. The matter is remanded to the director for further action consistent with the above and entry of a new decision.