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U.S. Citizenship
and Immigration
Services

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FILE: EAC 03 165 50593 Office: VERMONT SERVICE CENTER Date: NOV 25 2008

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:

SELF-REPRESENTED

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.


John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the petition for a nonimmigrant visa. After summarily dismissing the petitioner's appeal, the Administrative Appeals Office (AAO) granted a motion to reopen and affirmed its previous decision to dismiss the appeal. Subsequently, the petitioner appealed the AAO's decision, and the appeal was rejected as improperly filed. A subsequent motion to reopen was dismissed by the AAO, and the matter is now once again before the AAO on appeal. The appeal will be rejected.

The petitioner seeks to extend the employment of the beneficiary as its vice president as an L-1A nonimmigrant intracompany transferee pursuant to § 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(L). The petitioner, a corporation organized under the laws of the State of New Jersey, claims to be engaged in the wholesale of general merchandise and states that it is a subsidiary of M.R. Utensils, located in Ahmedabad, India. The beneficiary was initially granted a one-year period of stay in the United States in order to open a new office, and the petitioner now seeks to extend the beneficiary's stay.

The director denied the petition on February 24, 2004, concluding that the petitioner failed to establish that the beneficiary would be employed in a primarily managerial or executive capacity under the extended petition. The AAO dismissed the petitioner's appeal and affirmed its decision in a subsequent motion to reopen, in a decision dated May 17, 2007. The petitioner subsequently filed an appeal on June 14, 2007, which was rejected by the AAO, which noted that the AAO does not exercise appellate jurisdiction over AAO decisions. In its decision dated December 4, 2007, the AAO reviewed the petitioner's appeal and found that it did not meet the requirements for a motion to reopen or reconsider. A subsequent motion, filed on January 4, 2008, was reviewed by the AAO and dismissed in a decision dated July 7, 2008.

The matter is now again before the AAO on appeal. The petitioner indicated on Form I-290B that it would submit a brief and/or additional evidence to the AAO within 90 days.

The petitioner's appeal will be rejected. As previously stated in the AAO's decision dated December 4, 2007, the AAO does not exercise appellate jurisdiction over AAO decisions. The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003). *See* DHS Delegation Number 0150.1; 8 C.F.R. § 103.3(a)(iv). Accordingly, the appeal is not properly before the AAO.

Furthermore, upon review of the petitioner's brief statement on Form I-290B, it is apparent that the appeal does not meet the requirements of a motion as set forth in 8 C.F.R. § 103.5. The petitioner states on Form I-290B: "The appeal is preferred, being aggrieved in fact – cursory review, ignoring facts on record AND in law – ignoring previous AAO decisions, ignoring equity, abuse of discretion & OTHER. A brief detailing all these issues will be submitted for your consideration in 90 days time which please grant." Although the regulation at 8 C.F.R. § 103.3(a)(2)(vii) states that a petitioner may be permitted additional time to submit a brief or additional evidence to the AAO in connection with an appeal, no such provision applies to a motion to reopen or reconsider. The additional evidence must comprise the motion. *See* 8 C.F.R. §§ 103.5(a)(2) and (3).

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As the appeal was not properly filed, it will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(I).

ORDER: The appeal is rejected.