

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 98-10584
Summary Calendar

In the Matter of: AFFILIATED FOOD STORES, INC.,
Debtor.

UNITED STATES OF AMERICA, IRS,
Appellee,

VERSUS

AFFILIATED FOOD STORES, INC.,
Appellant.

Appeal from the United States District Court
for the Northern District of Texas
(4:98-CV-15-A)

February 26, 1999

Before EMILIO M. GARZA, DeMOSS, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Before us is the motion of appellee to dismiss appeal for lack of jurisdiction which a prior motion's panel of this Court ordered carried with the case. Having studied the record and Court

*Pursuant to 5TH CIR. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

opinions in light of the briefs filed by the parties, we are convinced that this Court lacks appellate jurisdiction over the Order issued by the district court from which an appeal was taken. The Order of the district court appealed from expressly provides that "this action be, and is hereby, remanded to the United States Bankruptcy Court for the Northern District of Texas, Fort Worth Division, so that the court may determine whether equitable tolling should apply and make specific findings of fact and conclusions of law as to the reasons for its determination." This remand order therefore involved "significant further proceedings" and under the jurisprudence of this Court, the district court's order is neither final nor otherwise appealable. See *In the Matter of Nicholas*, 21 F.3d 690, 692 (5th Cir. 1994); *In re Aegis Specialty Marketing, Inc.*, 68 F.3d 919, 921 (5th Cir. 1995).

This Court regrets that extra delay will necessarily be entailed by our Order and we hope that the lower courts can proceed expeditiously to resolve this case with a final decision.

DISMISSED.