

The background of the journal cover features a top-down view of a desk. On the left, a pair of black leather brogue shoes is partially visible. In the center, an open notebook with lined pages and a silver pen lies on a light-colored wooden surface. To the right, a black leather bag with a zipper is partially shown, and a black leather watch with a silver dial is resting on the desk. A large, semi-transparent white rectangular box is centered over the image, containing the journal's title and ISSN information.

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The journal invites contributions from law students, researchers, academicians, legal practitioners, and policy scholars. By facilitating engagement between emerging scholars and experienced legal professionals, *White Black Legal* seeks to bridge theoretical legal research with practical, institutional, and societal perspectives.

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AIM & SCOPE

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The journal publishes scholarly works examining doctrinal, theoretical, empirical, and interdisciplinary perspectives of law. Submissions are welcomed from academicians, legal professionals, researchers, scholars, and students who demonstrate intellectual rigour, analytical clarity, and relevance to current legal and policy developments.

The scope of the journal includes, but is not limited to:

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“STATUTORY EVOLUTION IN CUSTOMS LAW: THE IMPACT OF QAMAR JAHAN”

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- **Case Name:** *Qamar Jahan v. Union of India, Represented by Secretary, Ministry of Finance & Ors.*
- **Case Type:** W.P.(C) 198/2025
- **Court:** High Court of Delhi
- **Coram:** Justice Prathiba M. Singh and Justice Rajneesh Kumar Gupta
- **Date of Decision:** March 20, 2026

1. Introduction

The intersection of border enforcement and the rights of bona fide travelers have long been a point of friction in Indian customs jurisprudence. For years, international tourists, Overseas Citizens of India (OCIs), and returning residents faced arbitrary seizures of personal jewellery and systemic procedural hurdles upon arrival. The Delhi High Court’s landmark judgment in *Qamar Jahan v. Union of India* brings a much-needed overhaul to this archaic regime. By directing the Central Board of Indirect Taxes and Customs (CBIC) to completely revamp the customs baggage clearance framework, the Court successfully balanced the imperative of curbing smuggling with the constitutional necessity of safeguarding passenger dignity.

2. The Archaic Pre-2026 Regime: A Catalyst for Harassment

The genesis of this batch of writ petitions lay in the routine confiscation of personal gold jewellery worn by passengers. Prior to the Court's intervention, baggage clearance was governed by the Customs Act, 1962, the Baggage Rules, 2016, and the Baggage Regulations, 2013.

During the hearings, the High Court identified critical statutory and operational flaws that enabled executive overreach:

¹ *Qamar Jahan v. Union of India*, 2025 SCC OnLine Del 2066

- **The "Personal Effects" Exclusion:** Under Rule 2(vi) of the 2016 Baggage Rules, "personal effects" explicitly and strictly excluded all forms of jewellery, rendering even everyday wearables subject to scrutiny.
- **Outdated Valuation Caps:** Rule 5 of the 2016 Rules allowed duty-free clearance of jewellery up to 20 grams (capped at Rs. 50,000) for gentlemen, and 40 grams (capped at Rs. 1,00,000) for ladies. The Court rightly observed that these monetary caps were entirely divorced from current market realities, as Rs. 1,00,000 could barely purchase 15 grams of gold.
- **Systemic Violation of Natural Justice:** The Customs Department was routinely forcing passengers to sign pre-printed standard forms waiving their right to a Show Cause Notice (SCN) and a personal hearing. The Court ruled that this mechanically engineered waiver bypassed the mandatory three-fold statutory safeguards enshrined in Section 124 of the Customs Act, 1962.

3. Judicial Intervention and the Interim Standard Operating Procedure (SOP)

Recognizing that legislative and rule amendments are time-consuming, the Court mandated an interim Standard Operating Procedure (SOP) to halt the harassment of passengers immediately.

This judicial intervention introduced vital procedural safeguards:

- **Abolition of Pre-Printed Waivers:** The coercive practice of utilizing pre-printed waiver forms was struck down. Any waiver of a written SCN had to be consciously handwritten, and crucially, the right to a personal hearing could no longer be waived under any circumstances.
- **Evidentiary Transparency:** Customs officers were directed to take colored photographs of seized items in the presence of the passenger, providing them with a copy along with detailed detention receipts that included the issuing officer's specific credentials.

4. The 2026 Overhaul: Moving Toward a Facilitative Framework

Prompted by the High Court's firm directives, the CBIC engaged in extensive inter-ministerial stakeholder consultations, culminating in a modernized regulatory regime notified on February 1, 2026. This included the **Baggage Rules, 2026**, the **Customs Baggage Declaration and**

Processing Regulations, 2026, and Master Circular No. 04/2026-Customs.

The 2026 framework introduces several progressive reforms:

- **Redefining Personal Effects:** Aligning with the Revised Kyoto Convention, the absolute exclusion of jewellery was removed. "Personal effects" now broadly encompass all articles reasonably required for personal use during a journey.
- **Weight-Based Allowances:** The arbitrary monetary caps for jewellery were abolished. Allowances are now strictly weight-based (40 grams for females, 20 grams for non-females), insulating passengers from volatile market fluctuations.
- **Increased Duty-Free Allowances:** General allowances were raised to Rs. 75,000 for residents/OCIs and Rs. 25,000 for foreign tourists.
- **Waiver of Unjust Storage Charges:** In a significant relief, passengers are no longer liable to pay warehousing charges if their detained baggage is subsequently found to be bona fide and released.

5. Digital Modernization: The Launch of ATITHI 2.0

To operationalize this facilitative approach, the CBIC introduced the *ATITHI 2.0* web portal and mobile application across 37 international airports. Passengers can now file electronic baggage declarations (CBD-I/CBD-II) up to three days before arrival. Furthermore, the introduction of standardized Export Certificates (CBD-III) and Temporary Import Certificates (CBD-IV) ensures seamless cross-border transit of high-value personal goods for events like weddings.

6. Concluding Remarks

Qamar Jahan v. Union of India is a testament to the judiciary's role in modernizing administrative frameworks. By directing the shift from a "suspicion-based" approach to a "risk-based" profiling model, the Delhi High Court has ensured that anti-smuggling mechanisms do not operate at the cost of a tourist's fundamental dignity.

The resulting 2026 Baggage Rules and the *ATITHI 2.0* digital ecosystem represent a monumental leap toward ease of travel. It transforms India's customs regime at international borders from an adversarial checkpoint into a transparent, passenger-friendly interface, ultimately enhancing the nation's global image as a welcoming destination.



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