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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 20th March, 2026.

Uploaded on: 4th April, 2026.

+ **W.P.(C)198/2025 & CM APPL.8813/2025**

QAMAR JAHAN

.....Petitioner

Through: Mr. Ashish Panday, Mr. Priyanshu Upadhyay, Mr. Ajay Singh, Mr. Akshat Raghuvanshi and Mr. Anshuman Gupta, Advocates (M: 9599437665).

versus

UNION OF INDIA, REPRESENTED BY SECRETARY, MINISTRY OF FINANCE & ORS.

.....Respondents

Through: Mr. Shubham Tyagi, SSC CBIC with Ms. Navruti Ojha, Adv. (9650049869).

Mr. Harpreet Singh, Sr. Standing Counsel with Ms. Suhani Mathur, Mr. Jai Ahuja & Mr. Ashay Saxena Advs.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

JUDGMENT

Prathiba M. Singh, J.

1. The hearing has been done through hybrid mode.

(A) **Background**

2. The present petition, arising from confiscation of the Petitioner's personal gold jewellery, was one of many writ petitions, wherein several difficulties faced by tourists, international visitors and passengers while travelling to India, in Customs clearance of baggage came to light. In the



course of hearing this writ petitions as also other petitions, certain directions were issued for reconsideration of the Baggage rules etc. The CBIC along with the Government has now overhauled the Baggage rules and the framework for customs clearance, which was introduced in the recent Union Budget 2026.

3. By way of background, the primary statutory framework, earlier in existence, governing baggage clearance comprised of -

- i. the Customs Act, 1962 (hereinafter “*the Act*”),
- ii. the Baggage Rules, 2016 (hereinafter “*2016 Baggage Rules/erstwhile Rules*”), and
- iii. the Baggage Regulations, 2013 (hereinafter “*2013 Regulations/erstwhile Regulations*”). This framework was supported by various circulars, instructions, and notifications issued by the Central Board of Indirect Taxes and Customs (hereinafter “*CBIC*”).

4. In the batch of matters in respect of seized/detained goods by the Customs Department, from time to time, the Court had highlighted certain issues which required re-consideration by the CBIC.

5. The CBIC after having re-considered the existing framework for baggage clearance has notified on 1st February, 2026, the following:

- (a) Baggage Rules, 2026;
- (b) Customs Baggage Declaration and Processing Regulations, 2026; and
- (c) Master Circular No. 04/2026-Customs dated 1st February, 2026.

6. In addition, the CBIC has also introduced the “*Automated Traveller Helpdesk for Incoming Tourists and Homebound Indians*” i.e., “*ATITHI*”



2.0”, portal which is available *via* the website¹ and a mobile application.

7. In order to appreciate the changes in the new regulatory framework governing baggage clearance, it would be necessary to consider the directions passed by this Court in various proceedings.

(B) Issues for Reconsideration

8. In the present petition, *vide* 13th January, 2025, after considering the facts of the case *i.e.*, seizure of personal gold jewellery of the Petitioner, the Court had inquired from the Id. Senior Standing Counsels for the Customs Department about the applicable Rules and Regulations *qua* seizure/confiscation of jewellery worn by passengers travelling to India. Id. SSCs had drawn the attention of the Court to the 2016 Baggage Rules, in particular, to Rule 2(vi) and Rule 5 which read as under:

“2(vi) “Personal effects” means things required for satisfying daily necessities but does not include jewellery.

5. Jewellery.- A passenger residing abroad for more than one year, or return to India, shall be allowed clearance free of duty in his bona fide baggage of jewellery upto a weight, of twenty grams with a value cap of fifty thousands rupees if brought by a gentleman passenger, or forty grams with a value cap of one lakh rupees if brought by a lady passenger.”

9. The Court had also considered other materials, including the Guide for Travellers, prepared by the CBIC in respect of declarations by passengers travelling to India. However, it was noted by the Court that various *bona fide* passengers were being intercepted and items which they were wearing or

¹ Accessible at: <https://atithi.cbic.gov.in/#/login>



carrying, including jewellery, were being detained by the Customs Department. In the opinion of the Court, there was also lack of clarity in respect of the declarations to be made by travellers allowing for arbitrary exercise of powers by Customs officers. Accordingly, the Court was of the opinion that the 2016 Baggage Rules required a re-look by the CBIC. The relevant paragraphs of order dated 13th January, 2025 are as under:-

“7. The Court has been informed by the Customs Officials that as per the Baggage Rules, 2016, (hereinafter “Baggage Rules”) that came into force on 1st April, 2016 and was passed under Section 79 of the Customs Act, 1962, the term “personal effects” would not include jewellery. In this regard, reliance is placed on Rule 2(vi) and Rule 5 of the Baggage Rules, which are reproduced hereinbelow:-

“2(vi) “Personal effects” means things required for satisfying daily necessities but does not include jewellery.

5. Jewellery.- A passenger residing abroad for more than one year, or return to India, shall be allowed clearance free of duty in his bona fide baggage of jewellery upto a weight, of twenty grams with a value cap of fifty thousands rupees if brought by a gentleman passenger, or forty grams with a value cap of one lakh rupees if brought by a lady passenger.”

8. It can be seen from the said rules that any jewellery of twenty grams with a value cap of Rs. 50,000/- in case of a man and forty grams with a value cap of Rs. 1,00,000/- in case of a woman, only can be cleared free of duty upon return to India, subject to the condition that the concerned passenger is residing abroad for more than one year.



9. *The Court has also been shown the Guide for Travellers, prepared by the Central Board of Indirect Taxes & Customs (hereinafter “CBIC”), wherein in respect of jewellery, it is stated as under:-*

“Question 6. Who can bring Jewellery as baggage, free of duty?

Ans. An Indian passenger who has been residing abroad for over one year is allowed to bring jewellery, free of duty in his bonafide baggage upto 20 grams with a value cap of Rs. 50,000/- (in case of a gentleman passenger) or up to 40 grams with a value cap of Rs. 1,00,000/- (in the case of a lady passenger).”

10. *The Indian Customs Declaration Form (hereinafter “Declaration Form”) issued by the CBIC as part of the Guide for Travellers has also been perused by the Court, which would show that gold and gold jewellery is being treated as prohibited articles where the same is beyond the prescribed limits under Rule 5 of Baggage Rules, including gold bullion.*

11. *On a query from the Court, Mr. Shubham Tyagi, ld. Counsel for the Customs Department, as also Mr. Harpreet Singh, ld. Counsel, who regularly appears for the Customs and is present in Court, have informed the Court, that if any traveller is coming from abroad and is carrying jewellery which is more than the value as prescribed in Rule 5 of the Baggage Rules, the same would have to be declared by the said traveller. Further, where the declaration has been made the applicable duty would not have to be paid and an undertaking would have to be given, inter alia, stating that the said traveller intends to carry the declared jewellery back.*

12. *A perusal of the Baggage Rules or the*



Declaration Form does not show that this position, qua declaration of the jewellery, is duly clarified to travellers/tourists visiting India.

13. It is seen by this Court in a number of writ petitions, that even small quantities of jewellery is sometimes seized by the Customs Department if the passenger is walking through the green channel - which is for passengers not having any dutiable or prohibited goods. Moreover, the Court is of the view that the Baggage Rules may also require a re-look, considering the market rate of gold at present, where forty grams of gold would be costing much more the value cap of Rs. 1,00,000/- prescribed under Rule 5 of Baggage Rules. With the maximum limit of Rs.1,00,000/-, the gold that could be purchased may only be around 15 grams.

14. The ld. Counsel for the Customs Department also points out that there are many cases, wherein it is seen that travellers are undertaking frequent travel almost every week or two weeks, with the sole intention to smuggle gold into India.

15. While, there is no doubt that any illegal smuggling of gold deserves to be curbed, at the same time, bona-fidely and genuine tourists/travellers, including people from Indian Origin such as the OCI Cardholders, PIOs etc., could be travelling for social engagements in India or social events such as marriages etc., with gold, which could be of a much higher value than the permissible limits. Such tourists and travellers ought not to be expected to file detailed declarations, which could make the entire process of entering India and exiting from airports extremely unfriendly or onerous.

16. The Customs Officials in such cases would



also be vested with too much arbitrary power and discretion, which may result in harassment of genuine passengers.

17. Accordingly, this Court of the view that the Baggage Rules are required to be re-looked by the CBIC and a policy decision ought to be taken by the Government of India on both fronts:-

(i) to ensure that there is no harassment of genuine tourists and travellers, whether Indian or foreigners into India;

(ii) that illegal smuggling of gold is properly curbed.

18. The values of gold that would be permissible under the Baggage Rules would also have to be re-looked by the CBIC as the same appears to be completely not in tune with the current market value of gold.

19. Let this matter be referred to the Chairman, CBIC for reconsideration of the Baggage Rules 2016. Let the re-consideration be undertaken in coordination with any other Departments or Ministries as may be required and the report be filed before this Court regarding the reconsideration and the manner thereof. The report shall be filed by the next date of hearing.”

10. In the meantime, various other issues had also been brought to the attention of the Court. In ***Anjali Pandey vs. Union of India, 2025:DHC:372-DB*** the Court had considered the position of personal jewellery under the 2016 Baggage Rules in case of foreign nationals and the following directions were passed *vide* order dated 22nd January, 2025:

“28. Further, considering the large number of cases



where the Customs Department has seized or detained jewellery from tourists, either of Indian or foreign origin, and the directions passed by this Court in *Qamar Jahan (supra)* to the Central Board of Indirect Taxes (hereinafter “CBIC”) to reconsider the Baggage Rules, the Court deems fit to pass the following directions for the interim period till the CBIC has reconsidered the Baggage Rules:

i. Detention receipt should contain contact details of the tourist including email address and mobile/WhatsApp number;

ii. Coloured images of the gold ornaments/jewellery detained from the tourist should be attached to the detention receipt;

iii. Copy of the said images should be provided to the concerned tourist and the same shall also be retained on record of the Customs Department.

29. The above directions shall be followed henceforth by the Customs Department in all cases where jewellery is seized or detained from tourists of either Indian or foreign origin.

30. Let the said directions be also taken into consideration by the Chairman, CBIC while reconsidering the Baggage Rules pursuant to the directions passed by this Court in *Qamar Jahan (supra)*.”

11. In another case, *Amit Kumar vs. Commissioner of Customs, 2025:DHC:751-DB*, the Court had considered the validity of a preprinted waiver form, being relied upon by the Customs Department, by which the Petitioner therein was stated to have waived the Show Cause Notice



(hereinafter “SCN”) and personal hearing. The relevant extracts of the order dated 6th February, 2025 in *Amit Kumar (supra)* read as under:

“19. This Court is of the opinion that the printed waiver of SCN and the printed statement made in the request for release of goods cannot be considered or deemed to be an oral SCN, in compliance with Section 124. The SCN in the present case is accordingly deemed to have not been issued and thus the detention itself would be contrary to law. The order passed in original without issuance of SCN and without hearing the Petitioner, is not sustainable in law. The Order-in-Original dated 29th November, 2024 is accordingly set-aside.

20. The detained goods are directed to be released to the Petitioner. The storage charges of the detained goods shall however be borne by the Petitioner.

21. In order to avoid such situations in future, let this matter be referred to Central Board of Indirect Taxes and Customs (hereinafter ‘CBIC’) for undertaking a review of the various forms including Detention receipts, Requests for appraisal and connected documents. Let the same be duly changed in accordance with law and in compliance with the principles of Natural Justice. In addition, let a procedure be prescribed for issuance of show cause notices after detention of goods by customs.”

12. In *Mr Makhinder Chopra vs. Commissioner of Customs, New Delhi, 2025:DHC-1162-DB* this Court discussed the issue of personal jewellery being part of personal effects under the 2016 Baggage Rules and waiver of SCN and personal hearing by way of a preprinted waiver form. The relevant extracts of the order dated 19th February, 2025 in *Makhinder Chopra (supra)* are as under:

“17. A conspectus of the above decisions and provisions



would lead to the conclusion that jewellery that is bona fide in personal use by the tourist would not be excluded from the ambit of personal effects as defined under the Baggage Rules. Further, the Department is required to make a distinction between 'jewellery' and 'personal jewellery' while considering seizure of items for being in violation of the Baggage Rules.

18. At this stage, it would be apposite to refer to the judgement of the Madras High Court in **Thanushika vs. The Principal Commissioner of Customs (Chennai), W.P. No. 5005/2024** (decided on 31st January, 2025) wherein the High Court was dealing with a case where the gold jewellery of a Sri Lankan tourist was seized by the Customs Department. The High Court after analysing the various provisions of the Act and the Baggage Rules has held that the said Rules would only apply to baggage and would not extend to any article "carried on the person" as mentioned in Rule 3 of the Baggage Rules. The relevant portion of the said judgement is extracted hereinunder:

"50. From a perusal of above provision, it is clear that the Clause (b) includes the articles other than those mentioned in Annexure-I, upto the value of fifty thousand rupees if these are 'carried on the person' or in the accompanied Baggage of the passenger.

51. The Customs Act, 1962, enables the Central Government to make Rules to the extent of the articles carried in the baggage of a passenger and not for the articles, which were carried on the person and hence, the inclusion of the word "carried on the person" is beyond the scope of the provisions of Section 79 of the Customs Act.



52. When the provision of the Rule is beyond the scope of the provisions of the Act, only the provision of the Act will prevail over the Rules. Thus, the word “carried on the person up to Rs.50,000/- ” is clearly beyond the scope of the Act and it cannot be given any effect since it is contrary to the provisions of the Statute. Thus, it has to be construed only for the articles, which have not been mentioned in Annexure-1 and carried in the accompanied baggage of a passenger. In such case, the application of Baggage Rules, 2016, would not arise. Thus, the jewelery worn by the passenger will not fall within the provisions of the Baggage Rules, 2016.

53. On the other hand, if anyone worn any unreasonable amount of gold or jeweleries, they shall be brought under search, however, in the present case, it is not so. In India, as per our customs, it is normal to wear 10 nos. of bangles for a marriage function. In such case, it is for the Officers to apply their mind while detaining the gold. If 10 nos. of chains were worn by a person, then it would be suspectable and if anything is hide, then the provisions of Section 101 and 102 of the Customs Act, 1962, would apply since it clearly amounts to secreting the gold in their body under the pretext of worn in the body.

54. Considering the above aspect only, while enacting the provisions of the Customs Act, the Parliament has consciously excluded the jewels worn by the passengers. If there is any intention to put all the passengers into hassle, disrespecting their proprietorial rights, dignity, forgoing the customs, against the



fundamental rights, let the Parliament take a decision and amend the provisions of the Act. Till then, the Officers have to apply their minds with regard to detaining the passenger and the gold worn by them as the same would not fall within the purview of the Baggage Rules, 2016.

* * * *

56. In the present case, the Rule making body had made the Baggage Rules as if they are having inherent power of its own to make rules beyond the scope of the Statutes, and they have incorporated the word “carried on the person” as referred above.

* * * *

58. In the present case, admittedly, the Rule making Authorities made the Rules by traveling beyond the scope of the Act, which would amount to ultra vires. In such case, the Statute would prevail over the Rules. When such being the case, the Statute referred only with regard to the baggage and therefore, the Rule has to be confined and read only with regard to the baggage and not with regard to the articles “carried on the person”

* * * *

62. In the above cases, the Court had held that a Rule Making Authority has to make the Rules within the scope of the parent Act and no Rules shall exceed beyond the scope of the parent Act since it would amount to ultra vires. Thus, in the present case, the Baggage



Rule, 2016 will apply only to the baggage and the Rule made to the extent that the article “carried on the person” will not include baggage, which was in excess of powers conferred by the Rule making Authority and would amount to ultra vires. Therefore, the jewelery worn in person will not come under the purview of baggage.

63. Since this Court has held that the provision “as carried on the person” of the Baggage Rules, 2016 is ultra vires, the detention of gold under the Baggage Rules, 2016, in the present case would not apply, unless and otherwise if it is secreted in person, for which, the proceedings shall be initiated under Section 101 of the Customs Act, 1962, however, that is not the present case, except to the extent of false charges framed by the 2nd respondent against the petitioner.”

19. Thus, it is now settled law that the Customs Officials are required to consider the facts of each case and apply their mind before detaining the goods of a tourist, either of Indian or foreign origin. The Customs Officials have to be conscious of the fact that personal effects including jewellery of tourists are protected by the law from detention and same cannot be detained in a mechanical manner.

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24. The issuance of a show cause notice before confiscation of goods by the Customs officials is covered under Section 124 of the Act, which reads as under:

“124. Issue of show cause notice before



confiscation of goods, etc.— No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person—

(a) is given a notice in writing with the prior approval of the officer of Customs not below the rank of an Assistant Commissioner of Customs, informing him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and

(c) is given a reasonable opportunity of being heard in the matter:

Provided that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned be oral. Provided further that notwithstanding issue of notice under this section, the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed.”

25. A perusal of the above Section would show that the principles of natural justice have to be followed by the Customs Department before detention of the goods. The Section provides a three-fold requirement:

i) a notice in writing informing the grounds of confiscation;



ii) *An opportunity of making a representation in writing against the said grounds of confiscation;*

iii) *A reasonable opportunity of personal hearing.*

26. In terms of proviso to the said Section, the Customs Authority may issue an oral show cause notice to the tourist in lieu of a written show cause notice at the request of the said tourist. However, in the opinion of the Court the undertaking in a standard form as relied upon by the Customs Department waiving the issuance of show cause notice and personal hearing would not satisfy the requirements of Section 124 of the Act.

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*33. At this stage, it is noted that this Court has in **Qamar Jahan v. Union of India, Represented by Secretary, Ministry of Finance & Ors. 2025:DHC:174- DB** has directed the Central Board of Indirect Taxes and Customs (hereinafter "CBIC") to reconsider the Baggage Rules in respect of the confiscation of goods of tourists. 34. Since, the Court has made clear that the practice of making tourists sign undertaking in a standard form waiving the show cause notice and personal hearing is contrary to the provisions of Section 124 of the Act, hereinafter, the Customs Department is directed to discontinue the said practice. The Customs Department is expected to follow the principles of natural justice in each case where goods are confiscated in terms of Section 124 of the Act."*

13. As can be seen from the above, the Court took note of various issues affecting *bona fide* travellers and tourists while passing through and clearing their baggage from Customs. The said issues are enumerated hereunder:



- (i) **Seizure of ‘personal jewellery’:** The Customs Department was treating personal jewellery worn by passengers of both Indian and foreign origin, as dutiable or prohibited goods under the 2016 Baggage Rules, instead of considering it as part of personal effects.
- (ii) **Outdated monetary limits for jewellery:** The monetary limits prescribed under Rule 5 of the 2016 Baggage Rules *i.e.*, Rs. 50,000/- for men and Rs. 1,00,000/- for women, did not reflect the present market value of gold, and would also fail to accommodate the fluctuating market rates.
- (iii) **Use of pre-printed standard waiver forms in lieu of SCN and personal hearing:** The use of pre-printed forms for waiving SCNs and personal hearing by the Customs Department was found to be contrary to the three-fold statutory requirements of Section 124 of the Act.
- (iv) **Defaults in communication of notices / orders to the passengers:** The Court had observed in various petitions that the notices and orders passed by the Customs Department were either not being communicated to the passengers or being communicated after significant delay, preventing the passengers from availing appropriate remedies in respect of the same. However, the Court was also conscious of the fact that there might arise practical difficulties in communicating the order/notices to foreign tourists.
- (v) **Deficiencies in the form and content of Detention Receipts:** It was repeatedly seen by the Court that in the Detention Receipts issued by the Customs Department, various details such as the contact details of the passenger, the name and designation of the



issuing officer, and photographs of the seized goods, were absent – which resulted in notices being sent to the addresses by post instead of other means of electronic communication which were more reliable.

- (vi) **Erroneous application of the 2016 Baggage Rules to foreign nationals:** The 2016 Baggage Rules have limited application in respect of foreign nationals.
- (vii) **Disposal of seized goods without prior intimation to the passenger.**
- (viii) **Recording of pre-printed standard statements under Section 108 of the Act.**

14. All of the above issues were to re-considered by the CBIC, as per the directions issued by this Court, from time to time.

(C) **Interim Measures**

15. In this background, the present matter was heard from time to time. On 27th March 2025, various officials of the Customs Department were present and on the same date, it was noted as under:-

“10. The Court has queried Ms. Goyal on the issues highlighted by the Court in its various orders. The ld. Counsels appearing for the Petitioners and the Customs Department have also been heard on some of the aspects.

11. A short affidavit dated 26th March, 2025 has been handed over on behalf of Respondent No. 1 - Union of India and the same is taken on record. The submission on behalf of the Customs Department is that a detailed stakeholder consultation is currently being carried out by the CBIC. As part of the same, inter-ministerial meetings have been held on 7th February, 2025 and 21st



February, 2025 with the Ministry of Tourism, Ministry of Culture, Ministry of External Affairs, Directorate General of Foreign Trade and other relevant departments/ministries. Inputs are also stated to have been sought from various Customs formations at major airports as also the Directorate of Revenue Intelligence.

12. Accordingly, the stand of the Customs Department is that insofar as amendment to the Baggage Rules is concerned, the same would be undertaken after obtaining comments and inputs from all the stakeholders and some more time will be required for the same. In the meantime however certain measures are being implemented.”

(D) Standard Operating Procedure

16. In the meantime, the Court was informed that certain interim measures were also being implemented by the Customs Department in respect of detention receipts, oral SCN, waiver of SCN and personal hearing, communication of orders to passengers, etc. Considering the said interim measures, as also the fact that time was sought for amending the 2016 Baggage Rules, the Court had then directed as under:-

“20. Since the CBIC and Customs Department is now seeking further time to amend the Baggage Rules and to place the same before this Court, a sensitisation initiative shall be carried out by the Customs Department to all Customs officials. The Customs officials shall ensure that old jewellery of even Indian travellers, personal jewellery which is being worn by the travellers during travel or used jewellery is not unnecessarily detained in a routine manner, so as to ensure that no harassment is caused to travellers coming to India.

21. If the Baggage Rules cannot be amended by the



next date of hearing, a Standard Operating Procedure (hereinafter “SOP”) shall be placed on record by the next date which shall be followed by the Customs Department till the time the Baggage Rules are amended.

22. *Let the said SOP cover all the issues which have been highlighted by this Court in the present petition as also any other issue which has a material bearing on the matter under consideration. In addition to the above, let the CBIC, Customs Department and other stakeholders also consider the following:*

(i) *The manner in which the statements under Section 108 of the Act are recorded in standard form from all passengers;*

(ii) *The procedures for appraisal and for disposal of the items which are detained, also require to be simplified and re-looked.”*

17. As can be seen from the above, the Customs Department was directed to place on record the Standard Operating Procedure (hereinafter “SOP”) to be in effect till the 2016 Baggage Rules are amended. The draft SOP was then placed before the Court on 19th May, 2025 by Mr. N Venkatraman, Id. Additional Solicitor General. The said draft SOP was approved by this Court with certain modifications. The approved SOP is set out below:

“A. The detention receipts issued at the Green and Red Channel shall –

(I) necessarily contain the details of the passenger(s) such as Name (in full), Phone Number(s) including WhatsApp Number, E-mail address, Postal Address - local and/or foreign as applicable and clear signature of the passenger(s),

(II) clearly mention the number of the item seized and



*the net weight of the said items seized
(III) mention the Flight No., date and time of seizure,
(IV) the Names and signatures of the passengers
(V) mention clearly the name and designation of the
Customs officer making the seizure.*

B. Copy of the Passport, Boarding Pass would also be collected along with the Detention Receipt.

C. Images of the seized items shall be taken in the presence of the passenger(s) and the same shall be shared with the passenger(s) and one copy shall be retained by the Section.

D. The Customs officers shall also explain clearly to the passenger(s) the process of detention, appraisalment and the time that will be taken to conclude the proceedings.

E. Notice under section 124 w.r.t the grounds of confiscation or on imposition of penalty shall usually be written but if the passenger does not wish to receive a written notice, then the same may be oral and may be waived only at the request of the passenger or any other accompanying person. The standard pre-printed waiver form shall be done away with and the concerned Customs Officer shall specifically ask the passenger if the show cause notice is to be waived or not. If the passenger chooses for waiver of show cause notice, the same shall be written by hand by the said officer and signed by the said officer and the passenger. The same shall be handed over to the passenger along with the detention receipt. The name of the Customs Official who is taking the said oral waiver along with designation shall be mentioned, so that the verification from the said official would be possible in future, if required.

F. In any event, even if Show cause notice is waived, personal hearing shall not be waived and a notice would



be liable to be served for personal hearing. In cases where the passenger(s) have requested for waiver of written Show Cause Notice, the Customs officer posted at Warehouse must invariably issue letter for Personal Hearing to the passenger (with DIN) which is to be delivered either by hand, if the passenger(s) is present, or by WhatsApp, Post and email.

G. The passenger must be given an opportunity of making representations, preferably in writing. The submission of the Passenger(s) or their appointed Authorized Representative, must be recorded in their own handwriting at the time of Personal Hearing which must also include the process of appraisal of the detained goods.

H. The Order-in-Original should be issued at the earliest and the same should be delivered to the address - postal, e-mail id as well as the WhatsApp number - provided by the Passenger(s), with a clear note that the passenger is free to challenge the same within 90 days (60 days + 30 days), mentioning the email address of the concerned Appellate Forum. The name of the officer concerned who is passing the order shall also be mentioned in the full along with the designation.

I. The request of the passenger(s) for early appraisal or any other issue should be considered keeping a humane perspective. At the time of appraisal insistence for payment of storage/warehousing charges shall not be done. If after appraisal, the passenger seeks release upon payment of duty, then the storage/warehousing charges shall be collected.

J. Appropriate sensitization initiatives may be undertaken regarding the Baggage Rules and other relating provisions, especially relating to the



availability of the Export Certificates.”

18. The Court on 19th May, 2025 had then flagged certain issues that were still required to be considered, that are as follows:-

“9. In addition to the above SOP, this Court is of the opinion that some of the areas that still need to be addressed are:

(i) the permissible weight of used gold jewellery that can be worn by an Indian passenger, who travels for a short duration to foreign countries and returns to India;

(ii) the used personal jewellery that can be carried by Foreign passenger/s or eligible passenger who travels to India;

(iii) permissible weight of gold or jewellery that is permissible for import through Red/Green channel for different categories of passengers;

(iv) procedure for issuance of show cause notice within the prescribed period under the Customs Act, 1962 and timely disposal of the same.”

19. The above SOP was positively considered by the Government and the aforesaid SOP was implemented. The Court was informed that the amended SOP has been communicated to all Principal Chief Commissioners/Chief Commissioners (Customs/ Customs (Preventive)/ Customs and Central Tax) by the CBIC *vide* letter dated 17th May, 2025.

(E) New Regulatory Regime for Baggage Clearance

20. On 23rd July, 2025, in yet another positive development it was



submitted by the Id. ASG that amendments to the 2016 Baggage Rules are under consideration and meetings have been conducted between various Ministries in respect of the same. The copy of the e-office file was perused by the Court and being satisfied with the progress, further time of six weeks was granted for placing the amended Rules on record.

21. Thereafter, on 8th September, 2025, an additional affidavit dated 8th September, 2025 signed by the Additional Commissioner of Customs was taken on record, wherein the Court was informed that the amended Baggage Rules are under consideration and have almost been finalized. The Court was also informed that a web portal named '*ATITHI*' along with a mobile app had been launched on a pilot-run basis at the Indira Gandhi International Airport, New Delhi between 6th August, 2025 to 11th August, 2025. The Id. ASG had submitted that the said portal/app could be used by passengers for making advance declarations of any jewellery that could be carried. On this, the Court had also perused the office file of the Customs Department which consisted of the proposed amendments to the 2016 Baggage Rules. Since, the matter was stated to be under reconsideration by the CBIC after receiving input from various stakeholders, time was given for placing the final Baggage Rules on record.

22. The Court has today taken up the matter for hearing. Mr. Shubham Tyagi, Id. Counsel has placed on record the status report/short affidavit dated 19th March, 2026 on behalf of the Customs Department which reveals the erstwhile regulatory regime for baggage declaration has been completely overhauled and the same has been made more passenger and tourist friendly. The Court is informed that the following new Rules/Regulations have been notified on 1st February, 2026:



- (a) Baggage Rules, 2026 (hereinafter “2026 Baggage Rules/ new Rules”);
- (b) Customs Baggage Declaration and Processing Regulations, 2026 (hereinafter “2026 Baggage Regulations”); and
- (c) Master Circular No. 04/2026-Customs dated 1st February, 2026 (hereinafter “Master Circular 2026”).

23. In addition, the CBIC has also introduced the “**ATITHI 2.0**” i.e., “**Automated Traveller Helpdesk for Incoming Tourists and Homebound Indians**” available via website² as also mobile applications.

24. In terms of the said Rules, the following key changes have been brought about:

Definition of ‘Jewellery’ and ‘Personal Effects’

- (a) The definition of “jewellery” and “personal effects” has been amended which now reads as under:

“(f) “jewellery” means articles of adornment ordinarily worn by a person, made of gold, silver, platinum or such other precious metals, whether studded or not;

“(g) “personal effects” means all articles (new or used) which a passenger may reasonably require for his personal use during the journey, taking into account all the circumstances of the journey, but excluding any goods imported or exported for commercial purposes;”

- (b) As is seen, the term “jewellery” has now been defined under the new Rules, as being jewellery ordinarily worn by a person made of gold,

² Accessible at: <https://atithi.cbic.gov.in/#/login>



silver, platinum or any other precious metal. Whereas, the term “personal effects” would include both new or used articles which may reasonably be required by the passengers for their personal use during the journey. The circumstances surrounding the travel can also be considered – thus *bona fide* passengers ought not to be troubled or unnecessarily detained.

- (c) Only goods which are imported or exported for commercial purpose would not constitute personal effects.

Duty Free Imports of Personal Effects

- (d) Used personal effects and travel souvenirs carried on the person or in *bona fide* baggage are allowed duty-free clearance for all passengers including infants. Articles mentioned in Annexure-I, which includes gold or silver in any form other than ornaments, would be excluded from the ambit of duty free imports.

General Free Imports

- (e) The general duty-free allowance has been revised upward to Rs. 75,000/- for residents, tourists of Indian origin, and foreigners with valid non-tourist visas, and Rs. 25,000/- for tourists of foreign origin, arriving other than by land.

Special Jewellery Allowance

- (f) The monetary limit in respect of jewellery permitted for duty free clearance *i.e.*, fifty thousand for men, and one lakh for women, has been removed. Accordingly, under Rule 6, duty-free clearance of jewellery up to 40 grams for female passengers and 20 grams for other than female passengers as part of *bonafide* baggage has been exempted from duty – only for eligible passengers, not for all passengers.

25. Insofar as the 2026 Baggage Regulations are concerned, it is submitted



by Mr. Tyagi, Id. SSC that these Regulations introduce a digital system for filing of baggage declarations and processing of passenger baggage. These Regulations mandate online filing of baggage declarations so that the tourists can make these declarations even before taking their flight to India. Id. SSC has also drawn attention of the Court to the Regulation 3 whereby, if declarations have not been made electronically, the Assistant Commissioner of Customs or Deputy Commissioner of Customs, may allow declaration to be made in any other manner on arrival. This would also enable *bonafide* tourists who may not have made a declaration to still avail the declaration process.

26. In addition to the above, the following key amendments have been brought in to address the Court's concerns:

Automated System for Making Declarations

- (a) The baggage declarations are to be filed electronically through the ICEGATE portal or the *Atithi* mobile application (CBD-I³ for accompanied baggage; CBD-II for unaccompanied baggage), with the option of advance filing up to three days before arrival.

Revised Customs Declaration Form

- (b) The revised Indian Customs Declaration Form (CBD-I) now contains a specific question (Item 17) requiring passengers to declare only jewellery that is beyond satisfying daily necessities of life or beyond the prescribed special allowance.
- (c) CBD-I also contains the list of prohibited items, the items covered under duty free allowance, as also the currency declaration form.

³ See Regulation 2(c) which states: "Customs Baggage Declaration or CBD means a declaration form appended to these regulations"



Export Certificate and Temporary Import Certificate

(d) An Export Certificate (CBD-III) and a Temporary Baggage Import Certificate (CBD-IV) have been introduced as new standardised forms to facilitate re-import of personal effects taken out of India and temporary import of tourist articles, respectively. This would assist in availing duty free clearance without any ambiguity at the time of return to India.

Revised Detention Receipt

- (e) A new standardised Detention Receipt (CBD-V) is prescribed, which mandatorily captures the passenger's mobile number, instant messenger number, email address, address abroad, address in India, flight details, nationality, and tentative departure date.
- (f) CBD-V (Part B) requires the Customs Officer to record colour photographs of detained/seized articles in the presence of the passenger and to certify that the images have been shared with the passenger. The format also contains the name and designation of the concerned officer.
- (g) CBD-V (Part B) also certifies that the copy of the Passport and Boarding Pass of the passenger have been collected and the process of detention/seizure and appraisal and the tentative time to conclude the proceedings have been clearly explained to the passenger(s).

Storage Charges

- (h) Charges in respect of seized or detained baggage or package therein shall be collected only at the time when the baggage or package is released or returned in terms of first proviso to Regulation 7.
- (i) Further, in terms of second proviso to Regulation 7, no charges shall be levied in respect of baggage or package detained by Customs Authorities



that is subsequently released on the ground that it has been found to be *bona fide*. This is a major relief granted to passengers whose items are incorrectly or wrongly detained.

Disposal of Baggage

- (j) Where the detained or unclaimed baggage after a period of six months, extendable by another six months, has not been cleared or re-exported, then the same may be sold or disposed of after notice to the passenger and with permission of the proper officer.

27. The CBIC has also issued the Master Circular with the intention to create uniformity in customs procedures and to provide a single reference source. The Master Circular, being clarificatory in nature, consolidates 35 circulars issued by the CBIC from time to time to address specific operational scenarios which are still relevant. For the sake of brevity, few of the important guidelines addressing the specific concerns of this Court are reproduced hereunder:

“(ii) Personal Effects and Duty-Free Allowances.- Personal effects include all articles, whether new or used, which a passenger may reasonably require for personal use during the journey, taking into account the circumstances of travel, but excluding goods imported or exported for commercial purposes. The new definition of personal effects has been added in line with Revised Kyoto Convention. Only used personal effects required for satisfying daily necessities of life are allowed duty free without limit. Officers are not required to verify the newness of every article unless the articles are prima facie new and which may establish original packaging. Passengers are entitled to duty-free clearance of articles within the value limits prescribed under the Baggage Rules, 2026, subject to exclusions for prohibited or restricted articles. These



entitlements are also available, where applicable, to foreign professionals and other eligible categories specified in the Rules. Further, passengers excluding infants are eligible for monetary duty-free allowances and transfer of residence benefits subject to the class and duration of stay abroad or in India, as specified in the Annexure-B to this Circular.

(iv) Jewellery and Valuables. - The Baggage Rules, 2026 provide a distinct treatment for jewellery by defining the term and prescribing a special duty-free allowance for eligible residents and tourists of Indian origin residing abroad for more than one year. The valuables including jewellery carried by passengers shall be dealt in the following manner:

(a) Used Personal jewellery and valuables as used personal effects.- Used personal effects, **including personal jewellery and valuables required for daily necessities of life**, carried on the person or in bona fide baggage, shall be allowed duty free clearance under the Baggage Rules, 2026, **subject to risk-based verification**.

(b) Jewellery and valuables not forming part of used personal effect.- **(i) Jewellery and valuable, other than those required for daily necessities of life, brought by a passenger in bona fide baggage, shall not be allowed duty free, however, the same may be allowed on payment of applicable duty.**

(ii) Jewellery and valuable, other than those required for daily necessities of life, brought by a resident, tourist of Indian origin, or a foreigner with a valid visa, other than tourist visa, in bona fide baggage may be allowed duty free clearance at the time of its re-import, on the basis of an export certificate where such articles had been taken out earlier from India.



- (iii) Jewellery and valuable, other than those required for daily necessities of life, brought by tourists in bona fide baggage for use during their stay in India, may be allowed subject to declaration at the time of arrival, issuance of temporary baggage import certificate and mandatory re-export at the time of departure.
- (iv) Non- bona fide jewellery or valuables or such articles, not declared or not complying with the prescribed conditions, shall attract duty as per the Baggage Rules, 2026 and shall be dealt with strictly under the Customs Act, 1962.
- (c) **Special allowance for jewellery.**- Eligible residents and tourists of Indian origin residing abroad for more than one year shall be allowed a special duty-free jewellery allowance as prescribed under the Baggage Rules, 2026. Jewellery within the prescribed allowance shall be cleared duty free, while jewellery in excess of such allowance shall be assessed to applicable customs duty.
- (v) **Goods in Commercial Quantity as Baggage.**-
- (a) Passengers carrying goods in commercial quantity or prohibited goods shall not be entitled to clearance of such goods as bona fide baggage. Such goods shall be dealt with in accordance with the provisions of the Customs Act, 1962, including adjudication with imposition of appropriate redemption fine and penalty and, where warranted, prosecution may also be considered.
- (b) If a passenger is carrying a marginal excess of goods which are freely importable as normal cargo



in the bona fide baggage, it shall not be treated as prohibited merely because they are brought as baggage, consumer goods imported in commercial quantity are not eligible for clearance as bona fide baggage. As a facilitation measure, where a passenger carries a marginal excess of otherwise bona fide baggage, such excess may be allowed clearance on payment of applicable customs duty. The presence of some commercial goods does not render the entire baggage non-bona fide, and the remaining bona fide baggage may be extended admissible concessions. In such cases, the remaining bona fide baggage shall be eligible for admissible concessions, and duty-free allowances, as applicable under the Baggage Rules, shall be extended to the passenger.

(xii) Verification.- Verification of declarations shall be undertaken on the basis of risk-based evaluation. In such cases, routine or indiscriminate examination of bona fide baggage shall be avoided. Supervisory officers shall ensure uniform application of these principles and that genuine passengers are not subjected to avoidable inconvenience. Based on risk profiling or specific intelligence, Customs may identify passengers for examination and request them to report to the Red Channel, in accordance with the prescribed procedures.

28. It is clear from a reading of the above, that the CBIC has emphasised on making the entire baggage clearance system passenger friendly, while not compromising on the safeguards necessary to curb smuggling. The Master Circular clarifies that the concerned officers are not required to check the newness of every article. The definition of personal effects has been amended in terms of the International Convention on the Simplification and



Harmonization of Customs Procedures (as amended) also known as the Revised Kyoto Convention. Further, the guidelines also balances the interests of *bona fide* passengers in respect of gold jewellery, while protecting the commercial interests of the exchequer by excluding goods in commercial quantity.

29. It is also relevant to note and commend the guidelines on verification of declarations which would be done on the basis of risk-based evaluation, to avoid routine or indiscriminate examination of *bona fide* passengers. Such sensitisation of the proper officers is necessary to implement any passenger friendly regime.

(F) ATITHI 2.0

30. As mentioned above, as part of the overhaul of the regulatory regime, one major initiative by the CBIC has been the introduction of the *Atithi 2.0* web portal and mobile application. It is stated in the status report handed across today, that the *Atithi 2.0* mobile application has been operationalized on 26th February, 2026 across 37 international airports in India as a unified digital platform, enabling passengers to digitally file baggage declarations and facilitating faster processing of passenger baggage. The screenshot of the web portal is as under:

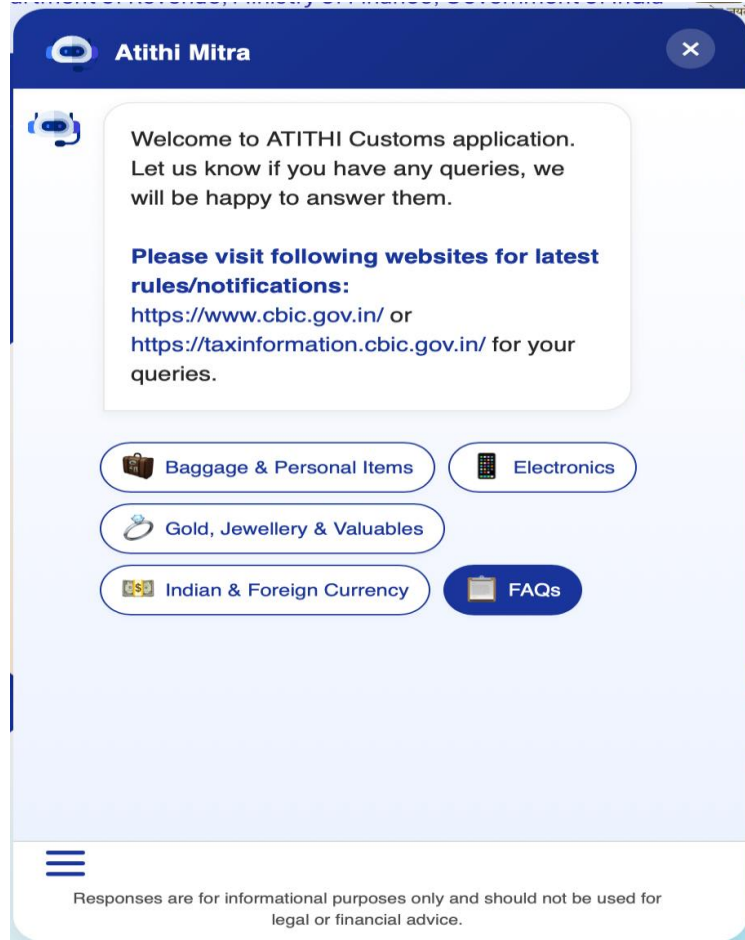


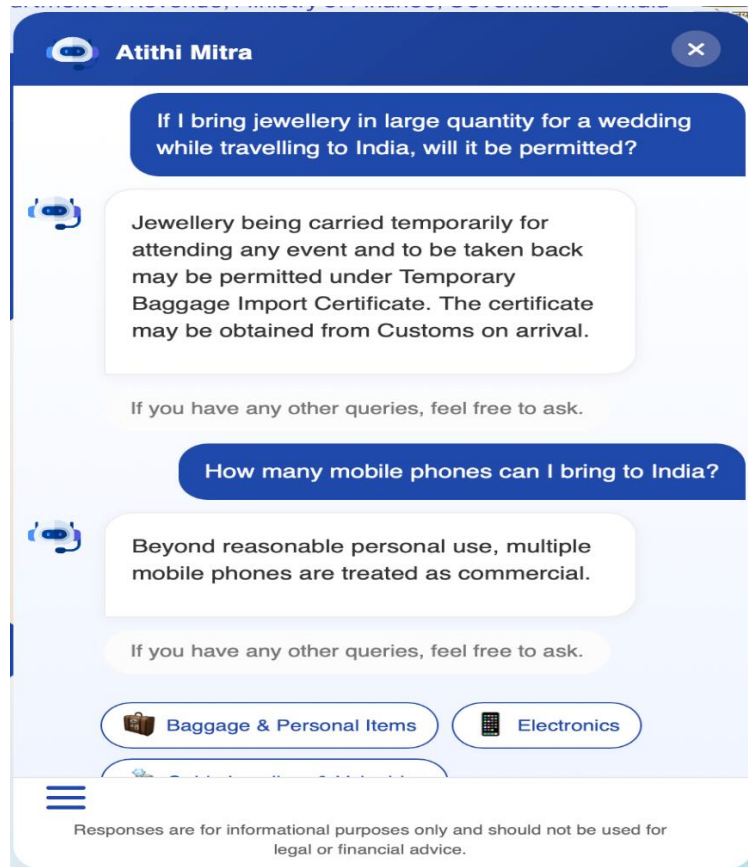
The screenshot displays the ATITHI 2.0 website interface. At the top, there is a navigation bar with the text "atithi.cbic.gov.in" and "Atithi Website: Login". Below this, the header features the "INDIAN CUSTOMS ATITHI 2.0 | अतिथि 2.0" logo on the left, the Central Board of Indirect Taxes & Customs logo in the center, and the text "Central Board Of Indirect Taxes & Customs" and "Department of Revenue, Ministry of Finance, Government of India" on the right. The main content area is titled "Welcome to India. Indian Customs wishes you a pleasant stay." and contains six service cards: "Baggage & Currency Declaration", "Export Certificate (EC)", "Temporary Import Certificate (IC)", "Pet Import Declaration", "Crew Declarations", and "Transfer of Residence (TR)". Each card includes a brief description and buttons for "Apply" or "Learn More". At the bottom, there is a "Knowledge Center & Support" section with buttons for "Explore Resources", "User Manual", and "Travellers Guide". A footer banner for "ATA Carnet - Passport for Goods" is also visible.

31. The Court has perused and checked the said web portal while finalising the present order, in order to appreciate the steps taken by the CBIC and the concerned authorities in implementing the directions of this Court and addressing the issues highlighted from time to time. This Court has consistently emphasised that the baggage clearance regulatory regime, being the first point of interface of the foreign tourists and Indian travellers with the country, the same must be facilitative and passenger-friendly. Simplification of procedures and easy access to applicable legal provisions are essential in this regard. In the opinion of the Court, the *Atithi 2.0* portal is a step in the right direction. In particular, the AI-based chatbot, “*Atithi Mitra*”, is a notable



feature for facilitating passenger queries. The screenshots of the same are extracted hereunder:





32. In view of the above discussion and after perusing all the above documents, the Court is of the opinion, that substantial modifications have been brought in the entire Customs framework for baggage clearance for enabling ease of travel by *bona fide* passengers.

33. The status report dated 19th March, 2025 along with copy of the 2026 Baggage Rules, 2026 Baggage Regulations and the Master Circular, is taken on record.

34. Insofar as the Petitioner itself is concerned, the Court is informed that the respective gold items have been released to her in November, 2025.

35. Accordingly, no further orders are called for in this writ petition.

36. The writ petition is disposed of in the above terms. Pending applications, if any, are also disposed of.



Post Script

37. The Court places on record its appreciation for the valuable assistance rendered by Mr. N Venkatraman, Id. Additional Solicitor General, Mr. Ashish Panday, Id. Counsel for the Petitioner and Mr. Shubham Tyagi, Id. SSC, Ms. Navruti Ojha, Id. Counsel, Mr. Jagdish Chandra, Id. CGSC, appearing for the Union of India, CBIC and the Customs Department.

38. In addition, the Court would also like to recognise the valuable assistance provided by various Id. SSCs for the CBIC, including but not limited to Ms. Anushree Narain, Mr. Harpreet Singh, Mr. Anurag Ojha, Mr. Aakash Srivastava, Mr. Aditya Singla, and various Id. Counsels appearing for the Petitioners in connected batch matters, as also the Customs officials who appeared from time to time.

39. Registry is directed to communicate this order to the OSD (Legal), CBIC through email (Osd-legal@gov.in) for necessary information and compliance. Let Mr. Shubham Tyagi, Id. SSC, also communicate this order to the OSD (Legal), CBIC for necessary information.

**PRATHIBA M. SINGH
JUDGE**

**RAJNEESH KUMAR GUPTA
JUDGE**

MARCH 20, 2026/MR/msh