

# TransPrice Times

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## ACG Networks Limited. – Mumbai ITAT

**Outcome:** Partially in favour of Taxpayer  
**Category:** Shareholder Activity

The taxpayer is an Indian headquartered multi-national company. The taxpayer has guided and monitored the functions of its Associated Enterprise ('AE') and for the same, the former's chief executive officer, chief sales officer, marketing personnel, finance and legal personnel supply chain employees, sales executives have invested their time. The taxpayer characterizes these activities as a shareholder activity and hence, reimbursable at cost. However, the transfer pricing officer ('TPO') considered these activities as provision of support services and not shareholder's activity and consequently, proposed an adjustment based on certain mark-up.

While the adjustment was deleted, the Tax Court rejected the taxpayer's contention that by virtue of activities undertaken, the taxpayer performed shareholder's function for its AE and hence, no mark-up is required to be charged on costs. The taxpayer performing the abovementioned activities to its AE, is rendering support services and hence, determination of arm length price is required. The Tax Court opined that the taxpayer cannot shield itself using the nomenclature of 'shareholder function' and avoid benchmarking the international transaction.

## Swatch Group India Private Limited – Delhi ITAT

**Outcome:** In favour of the taxpayer  
**Category:** Customs Duty Adjustment

The taxpayer is a distributor of watches manufactured by its Switzerland parent ('Swatch Group') brands in India. The taxpayer had applied the Resale Price Method as the most appropriate method using domestic comparables. Keeping the tested party and method similar, the TPO undertook a search for traders in European region, thereby selecting Italian companies as comparables. Although the products could be compared, the margin on the products had significant differences due to the element of customs duty.

The Tax Court upheld such differences and directed the TPO to give customs duty comparability adjustment to equalize the prices in comparison to the European market.

## RECENT NEWS

### Protocol amending India-Sri Lanka DTAA approved:

Bilateral amendment of India-Sri Lanka DTAA for Preamble text updation and inclusion of Principal Purpose Test (PPT) to meet the minimum standards on treaty abuse as per BEPS Action Plan 6.

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