

# AUTOMOTIVE INDUSTRY IN INDIA

A short guide on the automotive industry in India

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# PREFACE



The Indian automobile industry has historically been a good indicator of how well the economy is doing, as the automobile sector plays a key role in both macroeconomic expansion and technological advancement. Moreover, the growing interest of companies in exploring rural markets further aided the growth of the sector. The rising logistics and passenger transportation industries are driving up demand for commercial vehicles.

The automotive industry in India is one of the fastest-growing industries in the world. India's annual production of automobiles in Financial Year ("FY") 2022 was 22.93 million vehicles. India's automotive industry is worth more than \$222 billion, contributes 8% of the country's total exports, accounts for 7.1% of India's Gross Domestic Product ("GDP"), and is set to become the 3rd largest in the world by 2030.

By 2024, India is predicted to overtake China and the United States as the world's third-largest automobile market in terms of volume. Other than being one of the largest manufacturers, the industry also provides employment to a large number of people and is receptive to various innovative and ground-breaking inventions.

The world witnessed a global shutdown in the auto industry during the pandemic, but India has been quick to recover. At present, an automobile business is considered one of the profitable ventures to start in India in 2022. However, the Indian automotive market is a competitive market to enter as it is reasonably concentrated, with the top five players having most of the market share in all the segments.

# INDUSTRY SCENARIO

The two-wheeler segment is currently dominating the market in terms of volume, owing to a growing middle class and a huge percentage of the Indian population being young. Moreover, the growing interest of companies in exploring the rural market further aided the growth of the sector. The rising logistics and passenger transportation industries are driving up demand for commercial vehicles. Further, the electrification of vehicles, particularly three-wheelers and small passenger automobiles, is expected to bring in more changes.

India also enjoys a strong position in the global heavy vehicle market. Government initiatives such as the Automotive Mission Plan 2026, the scrappage policy, and the production-linked incentive scheme in the Indian market are further expected to make India one of the global leaders in the two-wheeler and four-wheeler markets by 2023.



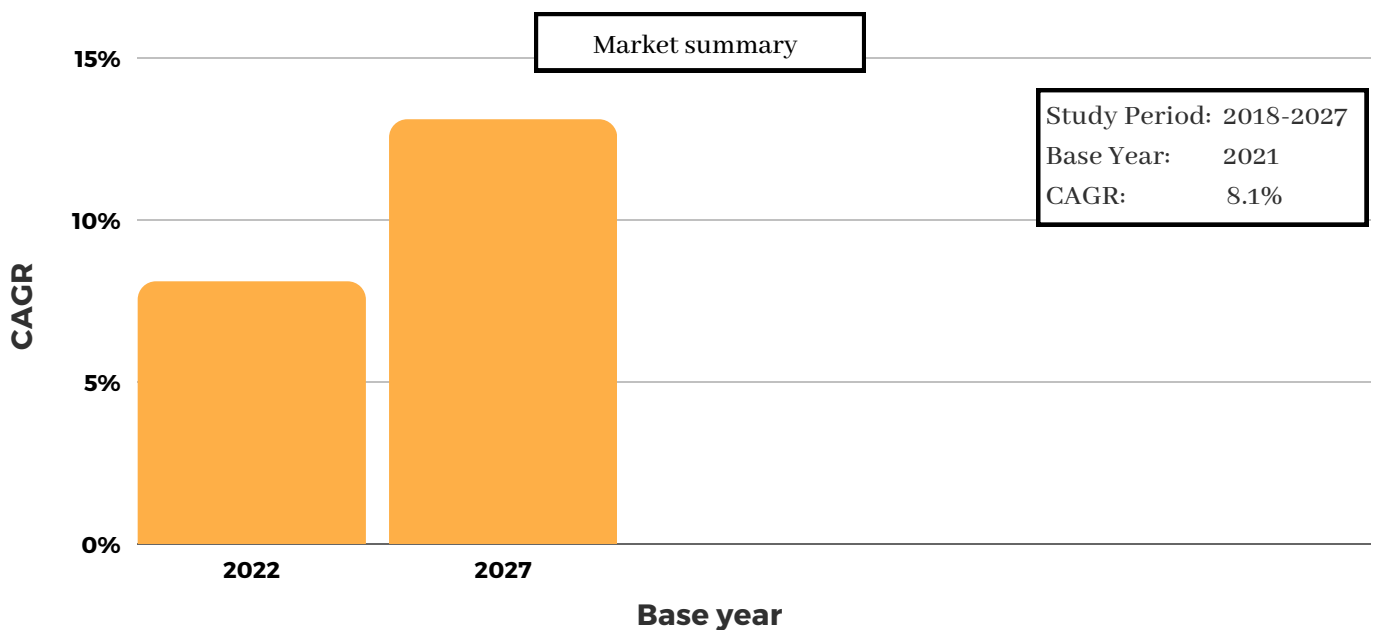
The following are some of India's notable rankings:

- India is the third-largest heavy truck manufacturer in the world.
- India is also the second-largest bus manufacturer.
- Globally, India is the largest tractor producer.
- India is also a prominent auto exporter and has strong export growth expectations for the near future.

**MARKET SIZE**

The automobile sector in India accounts for 49% of manufacturing GDP. Further, India's passenger car market was valued at US\$ 32.70 billion in 2021, and is expected to reach a value of US\$ 54.84 billion by 2027, while registering a Compound Annual Growth Rate ("CAGR") of over 8.1% during 2022–27. In June 2022, the total production of passenger vehicles, three-wheelers, two-wheelers, and quadricycles was 2,081,148 units. The Indian government anticipates that the vehicle sector will receive US\$ 8-10 billion in domestic and foreign investment by 2023. The Indian automotive industry is targeting to increase exports of vehicles by five times during 2016–26.

In India, the electric vehicle ("EV") market is expected to reach Rs. 50,000 crore (US\$ 7.09 billion) by 2025. According to a study conducted by the Council on Energy, Environment, and Water ("CEEW"), electric vehicles have a US\$206 billion opportunity in India by 2030. A Morgan Stanley report also estimates that India could be a leader in shared mobility by 2030 with its rising share of electric and autonomous vehicles. To promote the same, India currently provides various opportunities for electric and autonomous vehicle manufacturers and buyers.



**INVESTMENT**

To keep up with the growing demand, several automakers have started investing heavily in various segments of the industry in the last few months. The industry attracted Foreign Direct Investment ("FDI") equity inflows worth US\$32.84 billion between April 2000 and March 2022, accounting for 6% of the total equity FDI during the period. The "Make in India" initiative and other government schemes like the new Vehicle Scrappage Policy and the National Electric Mobility Mission Plan 2020 ("NEMMP") are drawing in more investments for the sector.

# BUSINESS STRUCTURE

The manufacturing and production of vehicle parts, which are vital goods for the automotive industry in India, is one of the primary enterprises in the sector. Significant demand for automobiles also led to the emergence of more original equipment manufacturers and auto component manufacturers. As a result, India developed expertise in automobiles and auto components, which helped boost international demand for Indian automobiles and auto components. Hence, the Indian automobile industry has a considerable impact on the auto component industry. Below is a list of additional recent automotive industry-related businesses.

## 1. Rental and ride-sharing cars:

Lately, the automobile business plan of rental and ride-sharing cars and bike rental startups has seen the highest growth. Uber and Ola currently dominate this sector. The idea of rental cars and ride-sharing is the next big platform for the automotive industry in India.

## 2. Restoration business:

The revival of vintage cars has been a luxury for many due to the scarcity of restoration professionals. After the internet boom in India, the restoration of automobiles has picked up pace, along with other automobile business plans. Restoration of automobiles can be highly profitable based on the market, the location the unit caters to, and the quality of the work.

## 3. Automobile parts business:

Many foreign manufacturers are relying on India for spare parts due to various factors that make their products much more efficient. Major global luxury brands are also sourcing their spare parts from India.

A person can either opt for the export of these automobile spare parts or start a spare parts business in India, or both. In India, the business can be started by setting up a retail store, an automobile store with a workshop, a franchised spare parts business, or an e-commerce site for spare parts.

## 4. Food truck:

The automobile business plan involving food is a new-age concept in India. The food business is always profitable in the country. These food trucks attract a wide range of consumers, especially those located near beaches, and have a high chance of resulting in a profitable venture.

## 5. Automobile repair service:

This business idea is perennial and thriving among automobile business plans. It is a quintessential business model in this industry that can be highly rewarding. It goes without saying that automobiles require regular service, and due to their constant usage, they need to be repaired. It is a sector that will always be in demand and is profitable in the long run.

## 6. Used car dealers:

The value of cars decreases by time but if the business of reselling cars is quite rewarding. A number of registered and un-registered companies are functioning in this sector.

## 7. Trucking business:

The automobile business plan includes transporting goods from the place of manufacture to the consumer state. They transport raw materials, machines, processed food, etc. This can be highly rewarding for the automobile industry in India.

# LEGAL FRAMEWORK

## 1. INDUSTRY SPECIFIC LAWS:

Government regulation in the automotive industry directly affects the way cars look, how their components are designed, the safety features that are included, and the overall performance of any given vehicle. The principal instrument governing the automotive sector in India is the Motor Vehicles Act, 1988 ("MVA") along with the Central Motor Vehicles Rules 1989 ("CMVR"). The Act governs emission norms and safety standards in India and consolidates the law pertaining to motor vehicles. The CMVR provide the rules that explain the MVA in detail. The central government primarily administers and regulates the industry through its apex wing, the Ministry of Road Transport and Highways.

## 2. CERTIFICATION AND REGISTRATIONS:

- **IRAI/ ARAI/ AIS Certification:**

Under Rule 126 of the Central Motor Vehicle Rules, the Automotive Research Association of India ("ARAI") is one of the key testing and certifying authorities that certifies automobiles, systems, and their components. It also assists in exporting the parts to countries like Singapore, the Netherlands, and Australia.

- **BIS Certification:**

The Bureau of Indian Standards ("BIS") also prepares and issues Indian standards for the Automotive Industry, as per which any new prototype or component shall comply with them to ensure the safety of the new products. The AISC standards are also transformed into Indian standards by the BIS.

## 3. EMPLOYMENT RELATED LAWS:

Similar to other industries, the employment laws are also applicable to the Automotive Industry, and compliances under them are usually the following:

- **Payment of Wages Act , 1936:**

The Payment of Wages Act, 1936, regulates the payment of wages to certain classes of employed persons. Moreover, the act seeks to ensure that the employers make timely payments of wages.

- **Industrial Disputes Act, 1947:**

This act provides for the constitution of a workers committee to promote measures for securing and preserving amity as one of the major compliances among others.

- **Factories Act, 1956 :**

This act lays down provisions for the health, safety, welfare, and working conditions of workers in factories. Additionally, it contains provisions for working hours, leaves, overtime, etc.

- **Employees' State Insurance Act, 1948:**

This act aims to provide financial protection to workers and their dependents in the form of compensation in the event of any accidental injury or death arising out of or in the course of employment.

- **Trade Union Act, 1926:**

This act provides for the registration of trade unions and lays down laws for them.

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#### 4. ENVIRONMENT AND SAFETY LAWS:

The Environment Protection Act, 1986 provides rules and regulations regarding greener standards of working for vehicles and companies, including smoke emissions from automobiles and the regulation of air pollutants from internal combustion engine equipment, including motor vehicles. Following are a few environmental laws laid down:

- The Ministry of Environment and Forests has laid down rules to ensure that emissions of air pollutants from automobiles are kept in accordance with international standards.
- Schedule IV of the Environment (Protection) Rules 1986 establishes standards for automobile emissions of smoke, vapour, and so on.
- The Bharat Stage Emission Standards (based on European regulations) are emission standards that are to be complied with. Currently, Bharat Stage IV (BS-IV) is applicable in India.
- A Pollution Under Control ("PUC") certificate is to be obtained every year, as it checks the current emission level of the vehicle.

#### 5. INTELLECTUAL PROPERTY REGULATIONS:

If a company or individual creates or owns intellectual property, registration under the relevant act is required to protect the use of that property. Depending upon the intellectual property generated, invented, or owned by the company, it can apply for registration under the Trademark Act, 1999; the Copyright Act, 1956; the Indian Patent Act, 1970; and the Design Act, 2000.

#### 6. MISCELLANEOUS LAWS:

Certain laws are essential for any organisation to adhere to the bare minimum standards to commence a new business within the automobile sector. These laws are meant to be rigorously followed by organisations as they pertain to the setting up of an organization's manufacturing unit and clearly defining what factories and companies are. Following are some other approvals to be obtained:

- **Company registration:**

As per the structure of the venture, it will be required to get registered as a company under the Companies Act, the Partnership Act, or the Society Registration Act.

- **Building approvals:**

As per the location of the building, building plan approval as per the state's guidelines will be required, and depending upon the number of floors, a lift clearance may be required. Further, as per the safety standards, a fire clearance from the fire department and an electricity connection will have to be obtained before starting a business.

- **Shop registration:**

If the venture is a shop, factory, or Micro, Small, and Medium Enterprise ("MSME"), then it will need to get registered under the state's Shop and Establishment Act, the Factory Act, or the MSME Act, as applicable.

- **Competition Act, 2002:**

The Competition Commission of India ("CCI") is the authority that regulates and investigates activities of an anti-competitive nature in the automotive sector. Moreover, the CCI lays down rules like spare parts of one brand cannot be used for the repair and maintenance of cars manufactured by another Original Equipment Manufacturer ("OEM") due to technical specifications; authorised dealers are prohibited from selling spare parts to independent repairers in the secondary market; and it also analyses the terms entered into by the agreements between OEMs and the original equipment suppliers (OESs).



# ESTABLISHMENT OF AUTOMOTIVE INDUSTRY



- In order to start a business in the automotive industry, a few licences and registrations are required which are discussed below according to the business plan.
- If the venture will be engaged in the manufacturing of any vehicle, it shall ensure that it uses only products that are in compliance with BIS standards. It shall also ensure that all its products undergo the requisite tests that are mandatorily required.
- If one is looking to set up an automotive parts business, repair service shop, or restoration business, it is mainly required to comply with industry-specific laws like the Motor Vehicles Act, 1988, and Central Motor Vehicle Rules, 1989, obtain building approvals, and register itself as a company, Limited Liability Company ("LLP"), or society under the requisite acts.
- If the venture is a shop, then it would be required to get registered under the States' Shop & Establishment Act; if it falls under the MSME categories as defined, then it shall obtain a Udyog Aadhar under the MSME Act.
- If the business will develop or has developed any new technology, it shall obtain a trademark, patent, design patent, or copyright registration for it.
- If the venture will be establishing a food truck, then apart from the above-mentioned licenses, it shall also obtain a food licence issued by the Food Safety and Standard Authority of India ("FSSAI"), which is an approval confirming that the food served is in compliance with the standards laid down.
- The next two sections will be discussing the additional compliances that a business venturing into the ride-sharing business or manufacturing or selling electric vehicles will be required to comply with.



## COMPLIANCES FOR LAUNCHING ELECTRIC VEHICLE (EV)

Given the government's increased focus on the adoption of EVs and the benefits offered, Indian start-ups have identified the merits of EVs and are providing services in the EV sector. In this sector, a number of players are currently functioning and blossoming, specifically in the 2-wheeler division, while investment in 4-wheelers is also gradually increasing. In this sector, an entrepreneur can either function as a manufacturer or a supplier of EV batteries and EV vehicles. Some of the additional compliances are mentioned below. Apart from these, a number of policies like the battery swap policy, battery waste management rules, etc., are at the draft stage, and once these are approved, a uniform regulatory framework will be in place.

### 1. STANDARD SPECIFICATIONS

The government, under the Motor Vehicle Act, notifies the manufacturer of the standards and specifications for the batteries and EVs, which the manufacturer shall comply with. Such notifications may be with respect to the following: width, height, length, and overhang of vehicles and of the loads carried; size, nature, and condition of tyres; brakes and steering gear; signalling appliances, lamps, and reflectors; speed governors; standards of the components used in the vehicle as inbuilt safety devices; etc.

### 2. APPROVALS

EVs and EV batteries undergo physical and mechanical tests and will require prior component approval, system approval, and whole vehicle type approval.

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### 3. GEOGRAPHICAL LOCATION OF THE MANUFACTURING UNIT AND LAND ACQUISITION

The proposed land on which such a unit is to be set up must have a good title and other land-related approvals. States often offer incentives to manufacturers of EVs, and the manufacturer can take into account the amount of incentive it will receive as per the state's EV policies.

### 4. BATTERY (MANAGEMENT AND HANDLING) RULES, 2001

As per the rules, any importer who imports new lead acid batteries or components containing lead for the purpose of sale shall be required to get registered with the Central Pollution Control Board for a period of five years.

### 5. AUTOMOTIVE RESEARCH ASSOCIATION OF INDIA (ARAI STANDARDS)

ARAI has issued various tests, approvals, and standards for manufacturers. Some of them include CMVR type approval for battery-operated vehicles (as per AIS 049); CMVR type approval for hybrid electric vehicles (as per AIS 102); requirements for constructional and functional safety for battery-operated vehicles (as per AIS 038); etc.

### 6. BUREAU OF INDIAN STANDARDS (BIS)

All EVs and EV batteries shall comply with the standards laid down, such as the Indian Standards for AC and DC Charging, the Indian standards for battery swapping, and the Indian standards for EV Batteries.

### 7. THE ENVIRONMENT (PROTECTION) ACT, 1986 AND THE RULES AND REGULATIONS FRAMED THEREUNDER

The environment act states that no person conducting any industry, operation, or process may discharge or emit any environmental pollutant in excess of the prescribed standards. The following consents or clearances are required:

- Consent for establishment and consent for operation under the Water (Prevention and Control of Pollution) Act, 1974, and the Air (Prevention and Control of Pollution) Act, 1981;
- Clearance from the state authority under the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 (valid for 5 years);

### 8. E-WASTE (MANAGEMENT AND HANDLING) RULES, 2011

As per these rules, the manufacturer shall ensure that e-waste generated by them, if any, is channelled to authorised collection centres or registered dismantlers and recyclers or is returned to the pick-up or take-back services provided by the producers.

# ADDITIONAL COMPLIANCES FOR A RIDE SHARING APP

A company that offers ride-sharing services through an app must follow the Motor Vehicle Act and the guidelines issued by authorities such as the Ministry of Road Transport and Highway. Such a company is often referred to as an "aggregator" as it facilitates ride-sharing services. Following is a description of a few compliances that the taxi service provider will have to comply with:

## 1. Motor Vehicle Aggregator Guidelines, 2020:

As per this guideline, the aggregator will be required to ensure the following:

- obtain an aggregator licence from the state government;
- ensure that the drivers appointed have at least 2 years of experience in driving, have a driver's license, KYC, and a good moral certificate;
- ensure that the insurance for both the driver and the vehicle has been obtained as per the prescribed limits;
- ensure that the driver is not logged in for more than 12 hours;
- ensure that the vehicle has a PUC certificate, valid registration, all cleared e-challans, commercial insurance, fuel emission certificates, a vehicle permit, a fitness certificate, and has all safety arrangements like an emergency button and a fire extinguisher in the vehicle;
- conduct refreshment training programmes at prescribed intervals;
- the app shall be accessible in Hindi, English, and one regional language. Furthermore, the app must include mandatory options for users to share ride details with their emergency contacts, GPS tracking, and an emergency option button.
- have a "zero tolerance" drug and alcohol policy;
- create a call centre that provides assistance 24 hours a day, seven days a week, and so on.

## 2. Advisory for Licensing, Compliance and Liability of On-Demand Information Technology based Transportation Aggregator:

The Ministry issued this advisory outlining the required compliances for the driver, vehicle, apps, and insurances. However, apart from these, it mandates that the aggregator shall have a website wherein it shall publish its policy on tax fares, registration of taxis and drivers with its platform or app, sharing of fares with taxi owners and drivers, safety of passengers, grievance redressal mechanisms for passengers, etc., along with the details of the grievance redressal center.

It also states that the app must include a feature that displays the driver's picture for riders to recognize, a zero tolerance alcohol policy, a ride rejection policy, and the use of derogatory or harassing language directed at passengers, as well as a penalty for rating a passenger based on sex, race, caste, creed, religion, or nationality.

## 3. Information Technology Act, 2000 and related rules:

As per the act and the related rules, the app shall not share any sensitive personal data of its clients with any other company or person. Such data shall be stored in India, and consent shall be obtained before collecting the data from the provider. The website or app must also include information about the grievance officer who has been appointed.

# TAXATION

## 1. Research and Development Cess, 1986:

As per the act, all payments made towards the import of technology will attract a cess of 5%.

## 2. Custom duty:

Customs duty is charged when any product is imported into India. Automobile manufacturers based in foreign countries who want to avail of lower custom duties and pass on the benefits to their customers can import Completely Knocked Down Kits (CKD) Kits, which are charged a concessional customs duty of 10%, while a completely built unit attracts a duty of 105% and a semi-built unit is charged a duty of 62%. The government further prescribes different rates for different items.

## 3. Corporate tax:

Companies in India are required to pay a corporate rate based on their gross turnover. A rate of 25% is charged if the gross turnover is up to Rs. 400 crore and a rate of 30% if the gross turnover exceeds Rs. 400 crore. Apart from the above, new manufacturing units not engaging any second-hand machinery can claim a lower corporate tax of 15% under Section 115BAB of the Income Tax Act of 1961.

## 4. Goods and Services Tax, 2016:

The base GST rate has been set at 28%, besides a cess (1% to 15%) on vehicles of different categories and sizes. Broadly, the following are the applicable rates:

- on two-wheelers, a GST of 28% is levied on engines below 350 cc and 31% on engines above 350 cc;
- on commercial vehicles, a HST of 28% is levied. However, passenger minibuses ferrying up to 13 passengers attract an additional levy of 15%;
- the base GST rate for passenger vehicles is 28%, with cesses of 1% and 3%.
- EVs attract a low GST rate of 5%;
- auto parts attract a GST of 18% to 28%, depending upon the metal used;
- authorized service stations for motor vehicles and repair shops attract a GST of 18%;
- old and used cars, when resold, attract a GST of 18% or 12%, depending on the engine capacity of the vehicle.

## 5. Transfer Pricing Regulations:

The Income Tax Act of 1961 has provisions for taxation of income arising from transactions between associated enterprises. Transfer Pricing Regulations lay down that any income arising from such an "international transaction" shall be computed with regard to the "arm's length price."

## DISPUTE RESOLUTION

A number of disputes in the automotive industry can arise. These disputes are primarily related to land acquisition for setting up manufacturing plants. Land acquisition disputes can be taken to the court and resolved through litigation, however, these disputes can also be referred to arbitration, which is a time and cost-efficient method. Trade unions are common in the automobile industry and are usually the other party to disputes.

If a dispute arises concerning the company's intellectual property, it is resolved by the appropriate court, however, if the contract allows it and the courts deem it appropriate, the court may allow it to be resolved through arbitration, mediation, or conciliation. But the general position of the Indian courts is that disputes regarding intellectual property are not arbitrable.



The alternate dispute resolution mechanisms like arbitration, mediation, and conciliation are governed and carried out as per the Arbitration and Conciliation Act, 1996. Arbitration is the process of resolving a dispute between parties by referring the dispute to one or more impartial individuals who serve as arbitrators. These arbitrators hear both sides, present their positions, and then render a final and binding decision in the matter. Compared to court cases, arbitration tends to be less expensive and consume fewer resources from the parties involved, making it more favorable.

The Competition Commission of India (CCI) (the authority regulating competition in India) is also actively involved in investigations dealing with allegations of anti-competitive behaviour in the automotive sector. The investigations carried out by the CCI are either initiated suo motu by the CCI, based on press reports and information flowing from parallel cases, or on the basis of information provided to it by third-party informants.

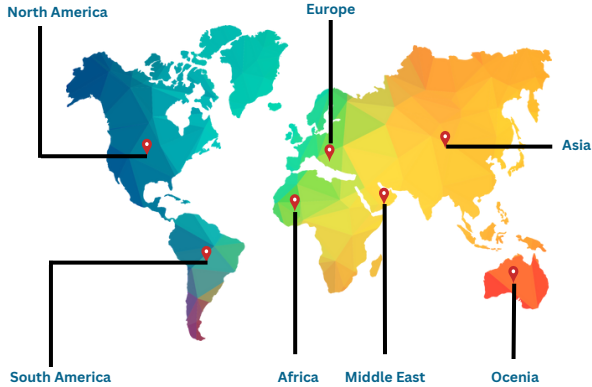
## HOW WE CAN HELP?



Our team can assist our clients with the following services:

- registration and formation as a company or an LLP;
- obtaining all the required licenses, approvals, and certifications;
- conducting a title search on property or land in preparation for the unit's installation;
- legal advice related to the structure suitable for the business;
- filling out returns and reports that are required to be filed with various government departments mandatorily at different times during the year, especially in regards to taxes;
- drafting and negotiating the agreements to be entered into to import, receive, provide, or repair batteries, spare parts, or technology;
- dispute resolution and handling all court cases, representations, and filings before the court of law;
- seek adjournments in disputes against trade unions;
- applying to obtain intellectual property rights;
- rendering opinions and providing advice on ad hoc matters;
- miscellaneous issues not addressed above.

## SERVING CLIENTS WORLDWIDE



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