



# Opportunities for a French Company in India in Nuclear & Clean Energy

February 2023



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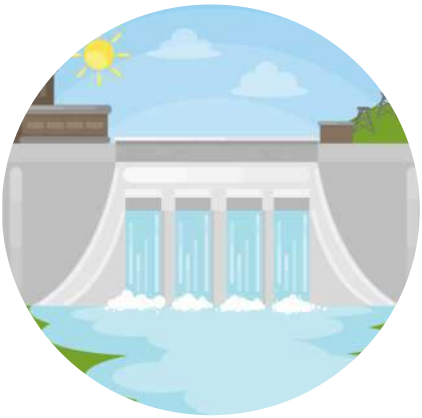
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Solar Energy



Wind Energy



Hydro Energy



Bio Energy



Green Hydrogen Energy



Nuclear Energy

# FOREWORD

The evolution of mankind and dependence on energy for sustenance have co-existed since time immemorial. The development & progress of the world today is wholly reliant on the use of energy. From basic essentials like cooking, heating, cooling, lighting, running & operating appliances to technology & development, and running of industries & factories everything is dependent on energy. Simply put energy is the enabler for human development & progress.

With the increased pace of globalization, the need for energy has grown substantially. The world at large has been dependent on fossil fuels such as coal, crude oil, and petroleum to meet energy requirements. However, the excess use of these fossil fuels has created environmental hazards & resulted in drastic climate change. The world today stands at a point where there is an urgent need to stop the damage due to the excessive use of fossil fuels. A shift to clean and renewable sources of energy is not an option but an immediate need.

The lack of access to reliable and clean energy supplies is now considered as a major barrier to improving human well-being & development around the globe. Economies around the world are taking rapid steps to reduce carbon footprints & accelerate the deployment of clean energy. COP26 in November 2021 was a milestone event where 151 countries announced decarbonization goals & achieve carbon neutrality by 2050.

India will play an important role in defining how the twin issues of clean energy transition & energy security will be resolved in the coming years. AT COP26, Hon'ble Prime Minister Narendra Modi has committed to a clean energy shift announcing an ambitious non-fossil fuel installed electricity capacity target of 500GW by 2030 and also that India as a country would achieve net-zero emissions by 2070.

Going forward, unlocking the potential for clean energy & nuclear energy transformation will be potential for India's growth & the world's global energy transformation.

With this backdrop, we are happy to present this White Paper which will elaborate on the strategies adopted by the Government of India to promote the deployment of clean energy & nuclear energy as well as the opportunities for French Companies in India in the said sectors in light of the various regulatory requirements.



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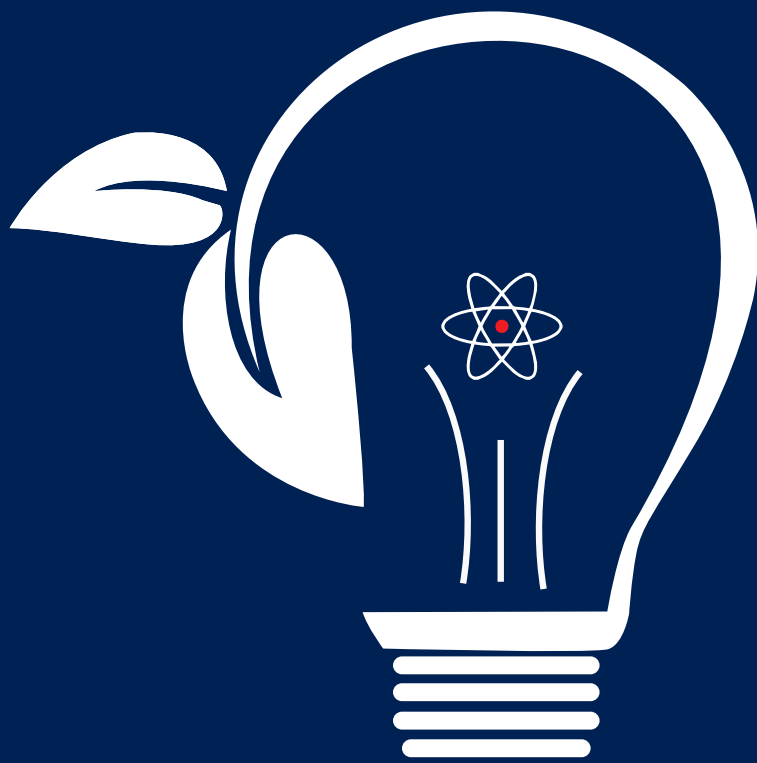


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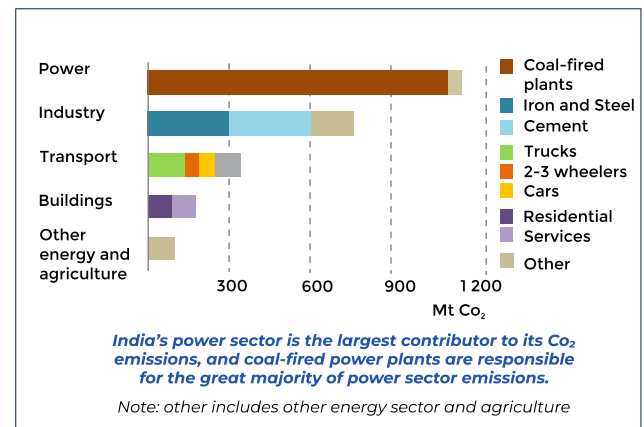




# Why Is India Pushing Toward Clean Energy?



In the context of energy utilization, as per the Indian Energy Outlook 2021, published by International Energy Agency (IEA), India has ranked as the third largest primary energy consumer in the world. Over 80% of India's energy needs are met by three fuels: coal, oil & solid biomass. Coal has underpinned the expansion of electricity generation & industry & remains the largest single fuel in the energy mix.

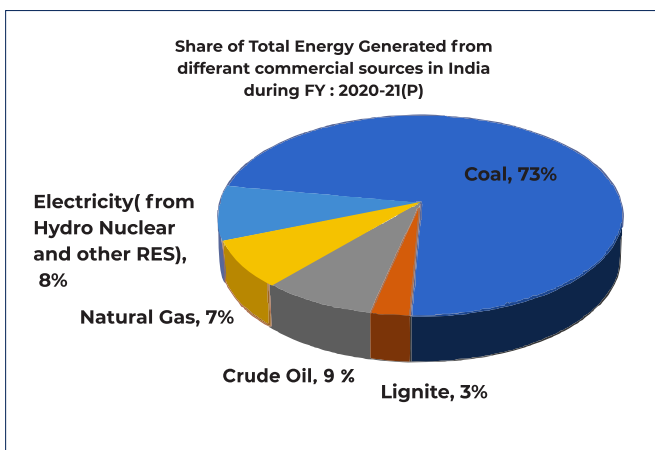


**CO<sub>2</sub> emissions from Indian Energy Sector, 2019**

Source : India Energy Outlook 2021

A new report "Lancet Countdown on Health & Climate Change" has warned governments against fossil fuel obsession & urged them to strengthen health programs. The report details the linkages between climate change & air pollution. Fossil fuel combustion produces climate change – causing greenhouse gas emissions & harmful air pollution.

India is the third largest global emitter of CO<sub>2</sub>, despite the low per capita CO<sub>2</sub> emissions. The carbon intensity of its power sector in particular is well above the global average. Additionally, particulate matter emissions are a major factor in air pollution, which has emerged as one of India's most sensitive social & environmental issues. In 2019, there were well over one million premature deaths related to ambient and household air pollution.



Source : Mospi.gov.in

Coal-based power plants make up for nearly 56% of India's power generation capacity & are major polluters. Studies indicate that a major portion of the carbon emissions in the country come from the industrial sector, especially from coal-based thermal power plants.

An expanding economy, population, urbanization & industrialization will result in an expansion of India's energy needs. The IEA forecasts India to overtake the European Union as the world's largest energy consumer by 2030.

Thus, in order to accommodate India's energy needs & ensure that such energy consumption does not lead to increased greenhouse emissions, India needs to switch to adopt to clean energy. A switch to clean energy not only reduces carbon emissions but also contributes to a more energy-secure economy, a growing job market & the creation of a resilient & reliable energy system.

**In a press release dated 24th March 2022<sup>1</sup>**, the Ministry of Petroleum & Natural Gas stated that

*“The current share of India in global primary energy consumption is 6.1% and is likely to increase to about 9.8% under stated policies scenario by 2050. To meet the increased requirement of hydrocarbon fuel, major strategies adopted inter alia include: attracting investment in Exploration & Production to enhance domestic oil and gas production, shifting to gas based economy, technological upgradation to improve refinery processes, energy efficiency and productivity, accelerating bio-fuel economy, expanding overseas oil and gas portfolio, diversifying oil and gas supply sources, etc. Government has taken up development of National Gas Grid, City Gas Distribution Networks to cover major demand centres across the country to provide clean and green fuel to Public. As per Ministry of Power, significant addition to Thermal (28,460 MW), Large Hydro (12,663 MW) and Nuclear Energy (8,700 MW) capacity is underway.*

*The Government has also announced its aim of achieving 500 GW installed capacity from non-fossil fuel-based capacity (Hydro, Nuclear, Solar PV, Wind, Biomass etc.) by 2030.”*

With this ambition, the Budget 2023 has proposed an outlay of INR 19,700 crores for the recently launched National Green Hydrogen Mission which

<https://pib.gov.in/PressReleasePage.aspx?PRID=1809204>

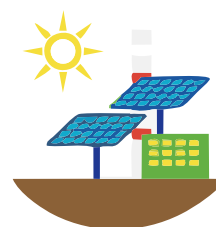
will facilitate the transition of the economy to low carbon intensity, reduce dependence on fossil fuel imports & make the country assume technology & market leadership in the said sector.

Additionally, the Budget 2023 has also provided for INR 35,000 crore for priority capital investments towards clean energy transition & net zero objectives & energy security.

With this backdrop, India is now making focussed steps to adopt non-fossil fuels for meeting its energy requirements

### Types of Non-Fossil Fuels in India

1. Clean Energy : Solar Energy, Wind Energy, Hydro Energy
2. Nuclear Energy



# Future of Non-Fossil Fuel in India: Prospects & Growth



## Clean Energy

Owing to India's booming economy & its potential for growth, its demand for energy is expected to increase over the coming years. The focus for the last few years has been to deploy & adapt to clean energy sources.

Invest India – India's National Investment Promotion & Facilitation Agency reports that India ranks 3rd in the renewable energy country attractive index in 2021 & 3rd largest energy-consuming country in the world.

India stands 4th globally in Renewable Energy Installed Capacity (including Large Hydro), 4th in Wind Power capacity & 4th in Solar Power capacity (as per REN21 Renewables 2022 Global Status Report)



The country has set an ambitious target to achieve a capacity of 500 GW by 2030. This is the world's largest expansion plan in renewable energy.

India was the second-largest market in Asia for new solar PV capacity and third globally (13 GW of additions in 2021). It ranked fourth for total installations (60.4 GW), overtaking Germany (59.2 GW) for the first time.

India's installed renewable energy capacity has increased 396% in the last 8.5 years and stands at more than 159.95 Giga Watts (including large Hydro), which is about 40% of the country's total capacity (as on 31st March 2022). The installed solar energy capacity has increased by 19.3 times in the last 8 years, and stands at 56.6 GW as of 1st June 2022. The installed Renewable energy capacity (including large hydro) has increased from 76.37 GW in March 2014 to 159.95 GW in May 2022, i.e. an increase of around 109.4%. The installed power capacity in the country is around 408.72 GW as of 30th November 2022.

India has achieved its Nationally Determined Contributions (NDC) target with a total non-fossil-based installed energy capacity of 159.95 GW which is 41.4% of the total installed electricity capacity.

With the increased support of the Government and improved economics, the sector has become attractive from an investors perspective. As India looks to meet its energy demand on its own, which is expected to reach 15,820 TWh by **2040, renewable energy is set to play an important role<sup>2</sup>**

The Institute for Energy Economics & Financial Analysis has estimated that India, the third largest energy-consuming country in the world, will reach 405 gigawatts of renewable energy capacity by 2030. It's expected to surpass the government's target of producing 50% of its electricity from **non-fossil fuel sources by the end of the decade<sup>3</sup>**.

**Major Investments & Developments in the Indian renewable energy sector are as follows<sup>4</sup>:**

- In August 2022, Norfund, who manage the Norwegian Climate Investment Fund, and KLP, Norway's biggest pension company, signed an agreement to buy a 49% share of a 420 MW solar power plant in Rajasthan for Rs. 2.8 billion (US\$35.05 million)
- Investment in renewable energy in India reached a record US\$ 14.5 billion in FY22, an increase of 125% over Fy21.
- The Solar Energy Corporation of India (SECI) implemented large-scale central auctions for solar parks and has awarded contracts for 47 parks with over 25 GW of combined capacity.
- Delhi's Indira Gandhi International Airport (IGIA) has become the first Indian airport to run entirely on hydro and solar power. Around 6% of the airport's electricity requirement is met from the onsite solar power plants.

**Some initiative by Government of India to boost India's renewable energy sector is as follows<sup>5</sup>:**

- On November 19, Prime Minister Mr. Narendra Modi dedicated the 600 MW Kameng Hydro Power Station in Arunachal Pradesh to the country.

- On November 9, Minister for Finance & Corporate Affairs, Ms. Nirmala Sitharaman, approved the final Sovereign Green Bonds framework of India. The Paris Agreement's Nationally Determined Contribution (NDC) targets will be further strengthened by this approval, which will also aid in attracting foreign and domestic capital to green projects
- In the Union Budget 2022-23, the allocation for the Solar Energy Corporation of India (SECI), which is currently responsible for the development of the entire renewable energy sector, stood at Rs. 1,000 crores (US\$ 132 million).
- In the Budget, the government allocated Rs. 19,500 crore (US\$ 2.57 billion) for a PLI scheme to boost the manufacturing of high-efficiency solar modules.
- Indian Railways is taking increased efforts through sustained energy efficient measures and maximum use of clean fuel to cut down emission levels by 33% by 2030.

The Ministry of New & Renewable Energy (MNRE) is the nodal Ministry of the Government of India for all matters relating to new & clean energy. The aim & objective of the Ministry is to deploy new & clean energy to supplement the energy requirements of the country.



<sup>2</sup><https://www.ibef.org/industry/renewable-energy>

<sup>3</sup><https://www.livemint.com/industry/energy/indias-energy-future-is-looking-green-says-report-11665619213673.html>

<sup>4</sup><https://www.ibef.org/industry/renewable-energy>

<sup>5</sup><https://www.ibef.org/industry/renewable-energy>

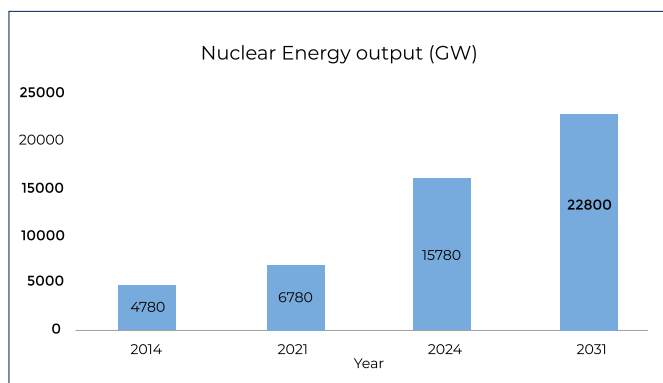


## Nuclear Energy

India is taking concentrated efforts & pushing forward the country's nuclear power capacity to meet its growing energy needs. Nuclear Power Corporation of India Limited (NPCIL), a public sector enterprise under the administrative control of the Department of Atomic Energy (DAE), Government of India, is responsible for the design, construction, commissioning, and operation of nuclear power reactors.

The Indian government aims to triple its nuclear power generation capacity in the next decade. At present, India has 23 nuclear reactors in 7 power plants across the country that produce 6780 MW of nuclear power.

India aims to increase its atomic power contribution from 3.2% to 5% by 2031, this surge in nuclear energy contribution in India will help the country to lead towards a more sustainable & economic future.



Source : IBEF

India is planning to increase the percentage contribution of nuclear energy to 25% of the total power capacity.



## Government Initiatives

- India is planning to construct 12 new nuclear power reactors by 2024.
- The country has 9 nuclear reactors already under construction, which will add 6700 MW of nuclear capacity. The country also has approved and sanctioned 12 more reactors with an additional capacity of 9000 MW.
- The country has approved to set up of the largest nuclear power plant in Jaitapur, Maharashtra. This power plant will produce 9900 MW of energy and will be the world's most powerful nuclear power plant, which will create thousands of jobs. This project is going to be in collaboration with the French governments.



# Investment Opportunities for French Companies in India in the Clean Energy/Nuclear Energy Sector



The economic reforms since 1990s have opened up the Indian economy to foreign investors and private participation in industries previously limited to public sector. Reforms in Foreign Direct Investment ('FDI') have made it possible for foreign investors to invest in India with ease.

## Clean Energy Sector

FDI up to 100% is allowed in the renewable energy industry under the automatic route, with no prior government approval needed. This allows foreign investors to invest in India as joint ventures with Indian Companies for financial & technical collaboration & to set up renewable energy-based power generation projects.

Several foreign companies have invested actively in Indian Companies. For instance, a consortium of investors led by BlackRock & Mubadala (UAE's sovereign Wealth Fund) announced in April 2022 that it was buying a stake in Tata Power Renewables for around INR 4000 crore. In 2021, Total France acquired 20% stake in Adani Green Energy, including a 50% stake in 2.35 GW of operating solar assets, for a landmark of INR 18000 crore.

These inflows highlight the opportunity to channel private capital into clean energy projects & increase the flow of financing for India's clean energy transition beyond traditional financing methods.

## Nuclear Energy Sector

As per the guidelines issued by the Department of Atomic Energy, foreign companies can participate in the supply chain for construction of nuclear power projects in various capacities such as technology partners, suppliers of engineering components, EPC contractors, technical and engineering consultancy service providers, other service providers etc.

Foreign companies are allowed to participate in tenders for various EPC or consulting projects depending on specific requirements and qualification criteria of suppliers.

## Other Business Avenues

French companies can invest in EPC projects in infrastructure, thermal power plants, power transmission, and distribution systems, smart grids, technical consultancy in EPC projects, industrial machinery, electronics, petrochemical & chemicals, pharmaceuticals, services sector etc.

The Government has liberalized the FDI policies, taken steps to improve the business environment through ease of doing business, adequate availability of land, promotion of 100% FDI, and encouraged investment through Private Public Partnership (PPP) and consortium with Indian partners; setting up

Special Economic Zones (SEZ) offering fiscal incentives and earmarked industry parks with high-class facilities.

There are more than 1,000 French companies in India having a presence in automobiles, electronics, chemicals, industrial machinery, food processing, technology services, etc. Notable among them are, Alstom, Renault, Schneider Electric, Thales, Safran, Saint-Gobain, Peugeot-Citreon, Arkema, Capgemini Technology Services, Atos, Gemalto, etc.

### Localization & tapping local engineering capabilities and Advantage India initiatives

A landmark agreement on Civil Nuclear Cooperation was signed between India & France on 30th September 2008. The agreement envisages progressive localization in India by persons designated by the Government through sourcing of equipment and components including transfer of technology for the implementation of nuclear projects.

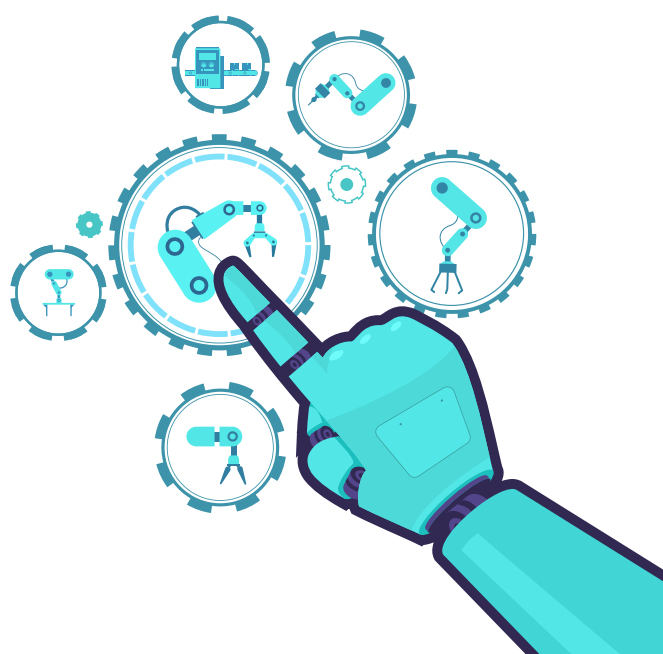
A foreign entity can establish a manufacturing setup in India and use its technical know-how to manufacture industrial equipment and components using imported/local materials with local skilled manpower thereby leveraging on the cost-arbitrage with comparatively much lower labor costs and import duties and taxes rationalization. The resultant establishment can also be used as an Export hub providing cost-effective development support to manufacturing operations and also deriving Government export incentives.

India has a vast pool of highly skilled engineers and also skilled technicians capable of manufacturing high precision industrial components, equipments and tools. The country also has large industrial base of Micro, Small and Medium enterprises (MSMEs) engaged in making such engineering goods from where a foreign enterprise can outsource their supplies. This will also ensure lower capital investment and costs.

The Make in India, Digital India and Startup India initiatives of the Government of India ([www.makeinindia.com](http://www.makeinindia.com)) opens up avenues in various sectors like thermal power, renewable energy, infrastructure, electrical machinery, telecommunication, electronic systems, electrical machinery, servicesectors.

To accelerate the economic development under these schemes, the government has been vigorously improving the infrastructure in terms of building industrial corridors with well developed land and quality infrastructure, fiscal incentives at central and state levels like relaxation of stamp duty, exemption on the sale/lease of land, patent subsidy, power tariff incentives, a concessional rate of interest on loans, investment subsidies/tax incentives, backward areas subsidies, special incentive packages for mega projects, export incentives, Special Economic zone incentives, etc.

Many Foreign companies have invested in India viz GDF Suez (France), GE Energy, Enercon, Nordex(Germany), Alstom, Legrand (France), Hitachi(Japan), GE(USA), Violea(France), Hines(USA), Bosch (Germany),etc.





# Doing Business in India



## 1. As an Independent entity

Depending on the qualifying criteria and eligibility, the foreign entity can bid in the tender as an independent EPC contractor. This is also true for technical consultancy services.

The foreign entity can also act as a content provider for products or services to the bidder depending on the terms and conditions precedent in the terms of the tender. This can take the form of import and supply of critical components or as a manufacturer in India.

The foreign entity can also act as a technical know-how provider under a technology transfer agreement subject to necessary approvals under The Foreign Exchange Management Act (FEMA).

Setting up an independent entity provides the flexibility to explore other business opportunities in various sectors either by setting up a manufacturing unit or as a trader/direct seller subject to import restrictions in sensitive sectors.

It is important for the foreign entity to understand the most appropriate business structure to be adopted, the relevant FDI rules under the Foreign Exchange Management Act for the approval process and the tax and other regulatory environment (Refer " for more details)

## 2. Collaboration with Indian Partners

The foreign entity may collaborate with Indian Partner in the Project by way of consortium setup or as a joint venture company.

It would be important to assess the capabilities of the joint venture partner ('JV partner') in terms of their technological skills/expertise and experience as well as financial standing and business reputation. In this regard, the assistance of professional consultants towards partner search and due diligence should be sought.

A foreign enterprise can participate as a consortium partner in the project through the tender process. The contribution of the foreign enterprise as a consortium partner can be by way of content provider of the products and specialized technical services required in the execution of the project.

The Nuclear Power Corporation of India ('NPCIL') is an Indian public sector undertaking wholly owned by the Government of India and is responsible for generation of nuclear power for electricity. NPCIL is administered by the **Department of Atomic Energy (DAE)**<sup>6</sup>.

The tenders of NPCIL allows participation of consortiums in the tenders.

A consortium can have a maximum of 3 partners of which at least one should be an Indian EPC firm as a lead entity with a specified percentage of share in the consortium and meeting the technical qualifications criteria as required in the tender conditions. (Refer for details regarding consortium bids). The parties would be required to enter in to a consortium agreement specifying the roles and responsibilities of each consortium partner along with their technical and financial capabilities and percentage participatory interest of each partner.

A foreign entity can also participate as a technology partner providing technology know-how and services as part of the consortium agreement under a supplementary technology transfer agreement. These agreements would be subject to approvals under the Foreign Management Act under automatic or approval route depending on the terms and conditions of the agreement.

An independent foreign entity established in India as an Indian subsidiary and having the necessary technical know-how can also associate with an Indian company to manufacture and market its proprietary products for the Indian market.





# Participating in Tenders



## Participating in Tenders of Nuclear Power Corporation of India Limited

Qualification Criteria  
 Consortium bids  
 Nuclear Civil Liability

### Qualification Criteria

As a general principle, NPCIL Expression of Interest (EOI)/Request for Proposal (RFP) requires that the Bidder should possess the requisite experience, resources and capabilities in providing the services necessary to meet the requirements, as described therein. The Bidder should also possess the technical know-how and the financial abilities that would be required to complete the scope of work.

The typical Qualification criteria for participation of the Bidders in an EPC Tender of NPCIL can be divided in to:

- a) Technical qualification;
- b) Financial qualification;
- c) Additional Qualifications as under:

#### I) Technical Qualifications:

1. The bidder shall be an Engineering, Procurement and Construction (EPC) Contractor who has carried out the specified EPC project for specified number of years.

2. The bidder shall meet all the specified technical qualification criteria of past experience of carrying out these projects for specified number of years.
3. The bidder shall have the requisite engineering and design team conversant with the code, practices, regulations required to be followed in a Nuclear Power plant for specified number of years.
4. The bidder must have past experience of having carried out erection, site testing, commissioning in relation to the project.
5. The bidder must have its own dedicated Quality Assurance department for carrying out quality control, inspection and surveillance of the intended jobs and documentary evidences.
6. The bidder shall possess relevant ISO certifications.

#### II) Financial Qualifications

1. The average annual turnover of the bidder for specified number of years (usually 3 years) shall not be less than a specified amount.

2. Past experience of having successfully carried out EPC projects for specified number of projects with specified cost each or in aggregate. (Where past works were carried out in consortium, the only the portion of work based on participation of bidder in consortium shall be taken into account).
3. Audited financials for last 3 years.
4. Positive Profit for at least 2 of 3 years.
5. In case of works carried out overseas, the supporting documents shall be attested/endorsed by Indian embassy/Mission/Consulate in respective country.

### III) Additional Qualifications:

The bidder must not have conflict of interest such as under:

1. The bidder has participated as consultant in preparation of the design or technical specifications of the subject tender.
2. The bidder was affiliated with a firm or entity that has been hired by the Purchaser for the contract.
3. The bidder applies as an Individual Firm and also as a Consortium.
4. The bidder submits more than one application.

### Consortium Bids

The bidder can submit bid in his individual capacity or in consortium with other partners. In either case, the bidder shall meet the technical and financial qualification requirements given in the tender. Bids from Joint Venture Companies ('JVCs') or consortiums may not be accepted for works below INR 1 million (€0.011 million).

JVCs are not permitted for service and maintenance contracts of all values.

Some tenders specify that a non-Indian firm is permitted to tender only in a consortium arrangement or joint venture with their wholly owned Indian subsidiary registered in India under Companies act, 2013 or any other Indian firm having minimum specified participatory interest.

Bidders can form a consortium with reputed partner(s) who is/are specialized in any part of the subject works included in the tender package and shall have to meet the requirements as below:

1. In case of consultancy works, engineering consultant shall currently be in the field of design and engineering of nuclear / fossil fuel fired thermal power plant and major industrial sub-station / facilities where in they have engineered power output and auxiliary power supply systems of power plant / industrial facilities in the last five years.
2. In case of consortium for any specialized portions / works of the package, then the consortium partner shall currently be active in such field (for which consortium has been formed), and he should have the past experience of having carried out such specialized jobs for nuclear / fossil fuel fired thermal power plant / industrial facility in the last five years.
3. The consortium partner(s) shall be jointly and severally responsible for the entire scope of tender covered in the package specifications, from start till successful handing over to the satisfaction of the purchaser.
4. In case of consortium, a maximum of three partners can form the consortium. The lead partner shall necessarily be an Indian EPC firm with specified minimum share in the consortium and shall also

meet the technical qualification criteria given herein before

5. The leader / lead partner of the consortium (the main contractor as mentioned above) shall enter into a consortium agreement/MOU with each consortium partner and shall furnish the copy of such consortium agreement which shall clearly bring out roles and responsibilities of each consortium partner along with the bid. It must also state that all members of the consortium shall be jointly and severally responsible for discharging all obligations under this contract. The consortium agreement should also indicate the percentage interest (participation) of each partner and their technical and financial capabilities shall be considered in same proportion to evaluate strength of the consortium. In addition, the tender document will specify the submission of 'Pre-contract Integrity pact' between the Purchaser (NPCIL) and the bidder which primarily aimed at prevention of corrupt & fraudulent practices. This is accompanied by integrity pack bank guarantee of a specified amount.

## Documents requirements

1. Entity registration certificates (certificate of incorporation; partnership deed; LLP registration);
2. GST registration;
3. Income tax registration (PAN Card);
4. Registrations, if any, with Directorate General of Supplies and Disposals, Executive Director, Directorate of Contracts and Materials Management (NPCIL), Directorate of Purchase and Stores, DAE

## Civil Nuclear Liability

The Civil liability for nuclear damages (CLND) Act 2010 & Rule 2011 thereof govern the Civil Nuclear liability provisions.

Accordingly, the purchaser i.e. NPCIL shall have Right to recourse against the Contractor in accordance with the provisions of Section 17(a) of Civil Liability for Nuclear Damages Act, 2010.

The Act aims to provide a civil liability for nuclear damage and prompt compensation to the victims of a nuclear incident through a no fault liability to the operator, appointment of Claims Commissioner, establishment of Nuclear Damage Claims Commission and for matters connected therewith or incidental thereto.

Clause 17 of the CLND Act, 2010 deals with the legal binding of the culpable groups in case of a nuclear accident. It allows only the operator (NPCIL) to sue the manufacturers and suppliers. Victims will not be able to sue anyone. In reality, no one will be considered legally liable because the recourse taken by the operator will yield only INR 15 billion (€172 million).

Right to Recourse: After paying amounts to the victims operator has the right to recourse to the suppliers.

Section 17(A): Right to recourse will apply in case it is already mentioned in the contract.

Section 17(B): Right to recourse in case of a nuclear damage because of the patent or latent defects in the materials or his employee. It also includes defects in sub-standard services.

Section 17(C): If damage is by a particular act of an individual with an intention to cause damage.

Clause 18 of the CLND ACT, 2010 limits the time taken to make the claim to 10 years

Clause 35 extends the legal binding that the responsible groups may have to face. The operator or the responsible persons in case of a nuclear accident will undergo the trial under Nuclear Damage Claims Commissions and no civil court is given the authority.

# Government Of India Initiatives In Clean And Renewable Energy



## Ministry of New and Renewable Energy (MNRE)

Recognizing the need for Energy security and sufficiency in the wake of volatile Oil market and Climate change concerns, the Government Of India has formed a separate nodal ministry called Ministry of New and Renewable Energy for all matters relating to new and renewable energy.

The Mission of the Ministry is to:

- a) Tap alternate energy sources for mobility & transportation viz Hydrogen, Bio-fuels and synthetic fuels
- b) Increase in the share of clean energy in electricity generation with adoption of renewables like wind, solar, geothermal, bio and tidal power.
- c) Identify areas in which new and renewable energy products and services need to be deployed
- d) Provide safe, affordable and reliable energy supply options.

Towards achieving the above goals, the Ministry envisions to develop new and renewable energy technologies, processes, materials, components, sub-systems, products & services at par with international specifications, standards and performance parameters and deploy such indigenously developed and/or manufactured products and services in furtherance of the national goal of energy security.

The Ministry shall facilitate research, design, development, manufacture, and deployment of new and renewable energy systems/devices for transportation, portable and stationary applications in rural, urban, industrial and commercial sectors through technology mapping and benchmarking; Identify Research, design, development and manufacture thrust areas; appropriate international level quality assurance accreditation; provide feedback to manufacturers on performance parameters to attain international standards; Resource survey, assessment, mapping and dissemination.

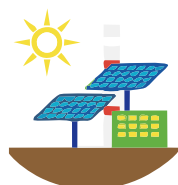




## The notable initiatives of the Ministry in some alternate energy resources are as under:

### Solar Energy

Towards tapping the country's total solar energy potential of 748 GW, the GOI have launched various schemes to encourage generation of solar power in the country like Solar Park Scheme, VGF Schemes, CPSU Scheme, Defence Scheme, Canal bank & Canal top Scheme, Bundling Scheme, Grid Connected Solar Rooftop Schemes etc. India currently ranks 4th in solar PV deployment across the globe as of 2021 with solar power installed capacity reached to 61.97 GW as of Nov' 2022.



### Wind Energy



India has the 4th largest wind installed capacity in the world of 35.6 GW (31st March 2019) and a generation base of 10000 MW per annum through the efforts of indigenous wind energy industry. Recent wind resource assessments indicate a potential of 302 GW at 100 m above ground level. GOI is promoting wind power projects through private sector investment with incentives and technical assistance. Apart from the incentives, the Government is assisting in wind resource assessment, Tariff framework for procurement of power from grid connected power projects, etc.

### Small Hydro projects

Hydro power plants with capacity of upto 25 MW are classified as Small hydro projects. These projects have been promoted by the Ministry for hilly regions of India with assistance of UNDP-GEF and India-Renewable Resources Development Project. The estimated potential is 21333 MW (2016) from Small/Mini Hydel projects.



### Waste to Energy

The Ministry is promoting all the technology options available for setting up projects for recovery of energy in the form of Biogas/BioCNG/Electricity from agricultural, Industrial and urban wastes of renewable nature. The technologies being explored are Biomethanation, Incineration, Gasification, Pyrolysis. The total estimated energy generation potential from urban and industrial organic waste in India is approximately 5690 MW. To facilitate geographical mapping of the different types of waste availability and its energy generation potential across India, GIS Based Waste Mapping Tool has been developed under **GEF-MNRE-UNIDO PROJECT**.



### Bio-energy



Biomass power & cogeneration programme is implemented with the main objective of promoting technologies for optimum use of country's biomass resources for grid power generation. Biomass materials used for power generation include residues from Agri products like bagasse, rice husk, straw, etc. As per a recent study sponsored by MNRE, the current availability of biomass in India is estimated at about 750 million metric tonnes per year. The Ministry is assisting in technical assistance in adopting technologies for conversion of biomass to energy and also financial assistance and fiscal incentives in setting up bio-energy generation products.

### Green Energy Corridors

The Green Energy Corridor Project aims at synchronizing electricity produced from renewable sources, such as solar and wind, with conventional power stations in the grid. For evacuation of





large-scale renewable energy, Intra State Transmission System (InSTS) project was sanctioned by the Ministry in 2015-16 currently implemented by eight renewable-rich states. The target is to install approx. 9700 km transmission lines and substations of a total capacity of approx. 22600 MVA to be completed by December 2020. The purpose is to evacuate over 20,000 MW of large-scale renewable power and improvement of the grid in the implementing states.

### New Technologies



MNRE has taken up initiatives in various new frontiers through R&D and demonstration projects with various research, scientific and educational institutes, Universities, national laboratories, industry collaborations, etc. Some of these new energy sectors are Ocean Energy, Hydrogen Energy, Geo thermal energy, Energy storage.

**The Opportunities for participation in the MNRE programs and projects can be accessed at the following website of MNRE:**

<https://mnre.gov.in/new-technologies/overview>

### Energy Conservation

Energy conservation has assumed enhanced importance with a view to conserving depleting energy resources. Efforts are being made to efficiently use the energy on the demand side through various innovative policy measures under the overall ambit of the Energy Conservation Act 2001. The Bureau of Energy Efficiency (BEE), a statutory body under Ministry of Power is responsible for spearheading the improvement of energy efficiency in the economy through various regulatory and promotional instruments. Ministry of Power, through Bureau of Energy Efficiency (BEE), has initiated a number of energy efficiency initiatives in the areas of household lighting, commercial buildings, standards and labeling of appliances, demand side management in agriculture/municipalities,



SME and large industries including the initiation of the process for the development of energy consumption norms for industrial sub-sectors, capacity building of SDA's etc.



# The Regulatory Environment



## I) BUSINESS STRUCTURING: Permitted Business Establishments

Foreign entities can commence business in India with various options to decide on the most appropriate structure for their business setup. The table below gives the features under various business structures

Business Structure	Features
<p>Joint Venture company ('JVC')</p>	<ol style="list-style-type: none"> <li>1. A JVC is association of 2 parties who may be individuals/companies, either resident/non-resident to incorporate as a corporate entity to collaborate or carry business in India with agreed contribution to capital and profits/losses. JVC is incorporated under the Companies Act, 2013 as Private or Public company.</li> <li>2. In case one of partner is a non-resident/foreign company, necessary permissions/approvals under Foreign Exchange Management Act would be required for acquiring shares and establishing business in India.</li> </ol>
<p>Wholly owned subsidiary (WOS)</p>	<ol style="list-style-type: none"> <li>1. A WOS is a separate legal entity (in the form of a private limited company registered) under the Companies Act, 2013 with minimum 2 shareholders and 2 directors of which one should be resident director.</li> <li>2. Ownership can be transferred.</li> <li>3. Public subscription not allowed.</li> <li>4. No limit on managerial remuneration</li> <li>5. Directors liable for defaults.</li> </ol>

<p>Wholly owned subsidiary (WOS)</p>	<ol style="list-style-type: none"> <li>6. Annual accounts and annual returns to be filed with Registrar of Companies ('ROC'), audit is mandatory and tax returns are to be filed.</li> <li>7. Dividends can be repatriated net of taxes, subject to certain conditions. Profits can also be repatriated along with capital through buyback of shares net of buyback tax paid on profits distributed by companies to shareholders.</li> </ol>
<p>One Person Company (OPC)</p>	<ol style="list-style-type: none"> <li>1. An OPC Separate legal entity registered under The Companies Act, 2013 with minimum 1 shareholder and 1 director of which one should be resident director.</li> <li>2. Ownership can be transferred to nominee.</li> <li>3. Public subscription not allowed.</li> <li>4. Directors liable for defaults under The Act.</li> <li>5. Annual accounts and annual returns to be filed with ROC, audit is mandatory and tax returns to be filed.</li> </ol>
<p>Limited Liability Partnership (LLP)</p>	<ol style="list-style-type: none"> <li>1. A LLP is a separate legal entity registered under the Limited Liability Partnership Act, 2008 ('LLP Act') with minimum 2 partners and 2 designated partners (similar to directors) of which one should be resident designated partner. A designated partner shall be a partner also.</li> <li>2. Ownership can be transferred.</li> <li>3. Public subscription not allowed.</li> <li>4. Partners liable for defaults under the LLP Act.</li> <li>5. Annual statement of solvency, annual accounts and annual returns to be filed with ROC.</li> <li>6. Audit mandatory in case turnover exceeds INR 4 Million (€ 0.044 million) or Capital contribution exceeds INR 2.5 million (€ 0.027 million), tax returns to be filed.</li> </ol>

	<p>7. The concept of a Small LLP has been introduced :</p> <p>(i) the contribution of which, does not exceed INR 2.5 million (€ 0.027 million) or such higher amount, not exceeding INR 50 million (€ 0.55 million) as may be prescribed; and</p> <p>(ii) the turnover of which, as per the statement of accounts and solvency for the immediately preceding financial year, does not exceed INR 4 million (€ 0.044 million) or such higher amount, not exceeding INR 500 million (€ 5.5 million), as may be prescribed</p>
<p>Liaison Office ('LO')</p> <p>(Categorized as a Foreign Company)</p>	<p>And fulfills such other conditions as may be prescribed</p> <ol style="list-style-type: none"> <li>1. A LO cannot undertake any commercial activities or earn income in India but only act as an intermediary between parent company and entities in India.</li> <li>2. The role of a LO is limited to collecting information, promoting export/import from/to India and facilitate technical/financial collaborations between parent company and companies in India subject to RBI approvals and permissions.</li> <li>3. The parent company should have track record of profit making in preceding 3 financial years in home country and net worth not less than USD 50,000 (€ 43,045) or its equivalent.</li> <li>4. The tenure in India is generally for 3 years except those involved in construction and development sectors where it is 2 years and extension of tenure is allowed with prior approval of RBI.</li> </ol>
<p>Branch Office ('BO')</p> <p>(Categorized as a Foreign Company)</p>	<ol style="list-style-type: none"> <li>1. A BO set up by a foreign companies can engage in export/import goods, rendering professional or consultancy services, carrying out research work, in which the parent company is engaged; promoting technical or financial collaborations between Indian companies and parent or overseas group company; representing the parent company in India and acting as buying/selling agents in India; rendering services in information technology and development of software in India; rendering technical support to the products supplied by the parent/group companies.</li> </ol>

	<ol style="list-style-type: none"> <li>2. A BO can also be established in Special Economic Zones subject to necessary conditions.</li> <li>3. Parent company should have track record of profit making in preceding 5 financial years in home country and net worth not less than USD 1,00,000 (€ 86,094) or its equivalent.</li> <li>4. All investments and profits earned by branches of a foreign company are repatriable after taxes are paid and subject to certain conditions.</li> </ol>
<p>Project Office ('PO')  (Categorized as a Foreign Company)</p>	<ol style="list-style-type: none"> <li>1. A PO can be set up to execute specific projects in India and cannot undertake or carry on any activity other than the activity relating and incidental to the execution of the project.</li> <li>2. Intermittent remittances by companies pending winding-up is permitted subject to satisfaction of AD Category 1 bank.</li> <li>3. The tenure of the PO is dependent on the tenure of the project for which set up.</li> </ol>

## II) Foreign Direct Investment ('FDI') Regulations: Permissions & Restrictions

### 1. FDI eligibility by Entity type

Foreign investment in an Indian Company is freely permitted in almost all sectors. FDI in the atomic energy sector (setting up & operating nuclear power plant) is prohibited, however, there is no restriction for foreign companies desirous of establishing in the supply chain logistics i.e manufacturing of equipment & providing other supplies in the nuclear sector.

FDI can be made under two routes—automatic route and approval route.

Under the automatic route, the foreign investor does not require any approval from RBI or Government of India for the investment.

Under the approval route, prior approval of the Government of India, Ministry of Commerce is required.

FDI proceeds are repatriable outside India subject to the procedures and compliances under Companies Act, 2013; Foreign Exchange Management Act, 1999 and other applicable law or upon liquidation of the Indian Company.



On November 24th 2015, in line with the Indian Government's "ease of doing business in India" campaign, prior government approval for FDI in Limited Liability Partnership (LLP) registered under the Limited Liability Partnership Act has been relaxed. A LLP is the best way other than Companies whereby foreign nationals can make investments and become a partner in the LLP. The investment made by the partners/investors can be withdrawn by way of withdrawal of profits or withdrawal of capital contribution.

FDI is permitted under the automatic route in LLPs operating in sectors/activities where 100% FDI is allowed through automatic route and there are no FDI-linked performance conditions.

FDI in partnership firm is prohibited as per the provisions of Foreign Exchange Management Act, 1999.

## 2. Eligible Investors

- A non-resident entity can invest in India, subject to the FDI Policy except in those sectors/activities which are prohibited. However, an entity of a country, which shares land border with India or where the beneficial owner of an investment into India is situated in or is a citizen of any such country, can invest only under the Government route.
- FDI up to 100% is allowed under the automatic route in all activities/sectors except the following sectors which require prior approval of the Government:

### FDI in Atomic Energy

The consolidated FDI Policy of the Government puts atomic energy in the list of prohibited sectors. FDI in nuclear projects is prohibited. However, there is no restriction on FDI in the nuclear industry for manufacturing of equipment and providing other supplies for nuclear power plants and related other facilities.

## 3. FDI In Non – Nuclear Sectors:

- 100% FDI is allowed in Construction Development: Townships, housing, built-up infrastructure and E-Commerce under Automatic Route is permitted subject to FDI-Linked Performance Conditions.

- FDI cap for power exchanges registered under the Central Electricity Regulatory Commission (Power Market) Regulations, 2010 is 49% under automatic route subject to FDI-Linked Performance Conditions.
- FDI cap is 100% under Automatic route for
  - a. manufacturing, dealing, importing, exporting of electricals and electronics and
  - b. chemical sector

## 4. Tax Regulations

The Indian Tax system well-structured and has a three-tier federal structure. The tax structure consists of the central government, state governments, and local municipal bodies. Primarily there are two types of taxes on revenue and income: Direct Tax and Indirect Tax. Direct Tax comprises the tax on income/profits, dividend distribution tax, capital gains tax etc. while the indirect taxes are of Goods and Service Tax (GST), customs duties/import duties.

- a. **Direct Tax** is levied on the profits and gains of a business entity. The tax rates are broadly dependent on the legal status and turnover

All domestic companies in India are liable to pay taxes on their global income (i.e income earned in India as well as income earned overseas). Foreign companies are liable to pay taxes only on income earned and accrued in India. With a view to encourage investment in India and make India attractive to foreign investors, the government significantly reduced tax rates.

Section 115BAA and section 115BAB were introduced vide Taxation and Amendment Laws (2019) under which companies can avail the benefits of the reduced tax rates subject to the satisfaction of certain conditions.

### Detailed provisions of these sections explained here below:

Particulars	Provisions of Section 115BAB	Provisions of Section 115BAA	Normal Provisions
<b>Eligible Entities</b>	All domestic companies engaged in the manufacturing and production of articles or thing	All domestic companies engaged in the manufacturing or service activities .	All domestic companies engaged in the manufacturing and production of articles or thing.
<b>Date of Incorporation</b>	Incorporated on/after 1st October 2019 and commences manufacturing business before 31st March 2024	No such condition.	No such condition
<b>Tax Rate</b>	Effective Tax Rate would be 17.16% (15% Tax plus 10% surcharge plus 4% health and education cess)	Effective Tax Rate would be 25.17% (25% Tax plus 10% surcharge plus 4% health and education cess)	Effective Tax Rate would be 33.384/34.944 % (30% Tax plus 7/12% surcharge plus 4% health and education cess)
<b>Allowance of Specified Deductions*</b>	Not Allowed	Not Allowed	Allowed
<b>MAT Applicability</b>	Not Applicable	Not Applicable	Applicable (15%)
<b>Restriction on use of second-hand plant and machinery</b>	Restrictions are in place	No such restrictions	No such restrictions
<b>Provision for specified domestic transactions</b>	Applicable	Applicable	Not Applicable

\*Specified deductions here are as explained below.

Foreign companies are liable to pay tax at 41.60%/42.432%/43.68% depending upon income earned by such foreign companies.

• **Eligibility Conditions and connected matters for low tax rate are as under: -**

1. The assessee should be a domestic company. This section is not applicable to other people like Individual, firm, LLP etc. and FOREIGN COMPANIES.
2. The company has commenced the or production of an article or thing on or before 31st March 2024. (For Section 115BAB only)
3. The business of such a company is not formed by splitting up or reconstruction of a business already in existence.
4. Such a company is incorporated on or after 1st October 2019. (For Section 115BAB only)
5. Such a company does not use second-hand machinery (except imported second-hand machinery) whose value is more than 20% of the value of the total Plant & Machinery used by the company. It is also worthwhile to mention here that second hand plant & machinery shall be eligible only when such plant & machinery is never used in India and no depreciation has been used by any person in India on such plant & machineries. Looking to the language it is advisable that purchaser shall purchase machineries directly from manufacturer and a certificate be obtained from seller that plant & machineries are new one and never used in India.
6. The company does not use any building previously used as a Hotel or Convention Centre and for which a deduction under Section 80ID has been allowed.
7. The company is not engaged in any other business other than:
  - i. Manufacture of an article or thing.
  - ii. Research in relation to such manufacture or production
  - iii. Distribution of such article or thing manufactured or produced by it.
8. The company is not engaged in the following businesses:–
  - i. Software Development
  - ii. Mining
  - iii. Conversion of marble blocks or similar materials into slabs
  - iv. Bottling of gas into cylinders
  - v. Printing of books
  - vi. Production of cinematograph films
  - vii. Any other notified business
9. The company does not claim any of the deductions/exemptions/benefits mentioned below in computing the total income for the purpose of income tax viz:
  - i. Tax Holiday for Units in Special Economic Zones (Section 10AA)
  - ii. Additional Depreciation u/s 32((ia)
  - iii. Investment Linked deduction u/s 32AD
  - iv. Benefits u/s 33AB or 33ABA
  - v. Accelerated R&D allowance (Clause (ii), (ia), (iii) of Sub Section (1), Sub Section (2AA) or Sub Section (2AB) of Section 35)
  - vi. Allowances u/s 35AD, 35CCC or 35CCD
  - vii. Deductions under Chapter VIA under the heading C: Deductions in respect of certain Exp, excluding deduction for additional employment u/s 80JAA
10. The company informs the Income Tax Department of exercising such option to claim lower tax rate in the prescribe form on or before the due date of filing income tax return for the company for the first AY. Option once exercised can-not be withdrawn.
 

CBDT has prescribed Form no 10ID for this purpose. If any company want to pay tax under this section than it has to file electronically under DSC form no 10ID on or before due date of filing of return of Income.

11. Deductions under Chapter VIA under the heading C: Deductions in respect of certain Exp, excluding deduction for additional employment u/s 80JJAA is not claimed.
12. No benefit of set off of loss or unabsorbed depreciation shall be available to the company. Looking to the language of section normal loss and depreciation can be set off but only loss or depreciation generated through section enumerated in point no 7 are not available means unabsorbed depreciation allowance due to claim of additional depreciation shall not be set off but available under normal depreciation shall be available for set off.
13. Profit should not be unreasonable if there are close relations between the transacting parties otherwise reasonable profit shall be determined by AO which seems to be reasonable looking at the facts of the case.

### **A foreign company is not liable to MAT if it derives income from the following sources:**

- Capital Gains from securities
- Interest
- Royalty
- Fees for technical services (FTS)

Business entities can take benefit of the Double Taxation Avoidance Agreement tax provisions as applicable.

### **b. Indirect Taxes**

**Goods and Service Tax (GST):** GST is a tax levied on the taxable Goods supplied and services rendered by a business entity in India. This is a transaction-based tax. The tax is eligible for a tax credit against inputs of goods and services availed by a business entity in India. A reverse charge of GST is applicable in case of import of services. The standard tax rate is 18%.



**Import duty:** Imports into India of goods are subject to Customs duty depending on the type of goods imported. Imports are also subject to GST on the value of goods + applicable customs duty.

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