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ELECTRIC VEHICLE INDUSTRY IN INDIA

- A Regulatory Overview

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To reduce its carbon emissions and give a much-needed boost to the manufacturing and adoption of Electric Vehicles (“**EV**”), the Government of India, in March 2011, launched the National Mission of Electric Mobility (“**Mission**”) to promote electric mobility in the country. India also made a firm commitment at the United Nations Climate Change Conference held in Paris on December 12, 2015, to reduce its carbon footprints and revamp the existing energy infrastructure to make it more sustainable and viable.

FAME I

In furtherance of the Mission, in 2015, the Ministry of Heavy Industries and Public Enterprises (“**MHIPE**”) launched the Scheme for Faster Adoption and Manufacturing of (Hybrid &) Electric Vehicles Scheme in India (“**FAME I**”), under the National Mission on Electric Mobility, 2011 and National Electric Mobility Mission Plan, 2020 which was notified in 2013. The primary objective of FAME I was to promote the adoption of electric and hybrid vehicles. It was launched for an initial period of 2 years commencing from April 1, 2015 and was later extended till March 31, 2019.¹

FAME I focused on 4 areas i.e., (i) Demand creation (by reducing the upfront cost of electric and hybrid vehicles); (ii) Technology platform (including facilitation of R&D in the EV sector by sanctioning of grants); (iii) Pilot project (including investment in spreading awareness about environment-friendly vehicles); and (iv) Charging infrastructure (including facilitation through grants for public charging infrastructure components, the introduction of suitable policies framework etc.). It aimed to provide demand incentives for all segments of EVs including 2-Wheelers, 3-Wheelers Auto, Passenger 4-Wheeler Vehicles, Light Commercial Vehicles, and electric Buses, basis their technology and battery specification. By the end of its operational period, a total incentive of Rs. 359 Crores², against the total committed expenditure of Rs. 366 crores, for 2.8 Lakhs vehicles was disbursed under FAME I, and approximately 50 million litres of fuel is estimated to have been saved.³

On completion of the operative period of FAME I and post assessing its impact, the second phase of FAME (“**FAME II**”), which is the extant policy applicable to the EV sector, was launched by the MHIPE on April 1, 2019.⁴ FAME II was initially launched for a period of 3 years however, its applicability was extended, by a subsequent notification of June 25, 2021, for a period of 2 years which will end on March 31, 2024.⁵ The primary objective of FAME II was to enhance the demand for EVs and support a large range of 2-Wheeler, 3-Wheeler, and 4-Wheeler EVs as well as electric Buses.

FAME II

FAME II focuses on 3 verticals namely, i.e., (i) Demand Incentives (by offering percentage benefit basis the sales value of EVs); (ii) Charging Infrastructure (aimed at establishing a network of public charging stations); and (iii) Administrative Expenditure (including publicity of FAME II and spreading awareness about EVs). The government has allocated Rs. 10,000 crores to implement FAME II, out of which, Rs. 1,000 crores have been reserved for the setting up of EV charging stations across the country; Rs. 8,596 for providing demand incentives; and the remaining Rs. 38 crores are to be invested in the administrative functions of FAME II including Publicity, Information, Education & Communication activities. These amounts will be disbursed in yearly batches in

¹ PIB, *FAME India Scheme* (9th Jul., 2019), <https://pib.gov.in/PressReleasePage.aspx?PRID=1577880>.

² PIB, *Ministry of Heavy Industries supports 2,31,257 Electric Vehicles under Phase-II of FAME* (4th Feb., 2022), <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1795444#:~:text=The%20Phase%2D1%20of%20the,project%20and%20charging%20infrastructure%20components>.

³ Ministry of Heavy Industries, https://fame2.heavyindustries.gov.in/content/english/15_1_FAMEI.aspx.

⁴ Ministry of Heavy Industries, https://fame2.heavyindustries.gov.in/content/english/13_1_brief.aspx.

⁵ Notification No. S.O. 2526(E), Ministry of Heavy Industries and Public Enterprises (25th Jun., 2021).

accordance with FAME II. Its emphasis on incentivizing EV manufacturing and setting up of charging infrastructure is discussed as follows:

Incentives for EV Manufacturing

FAME II aims to enhance the demand for EVs by incentivizing customers in form of upfront reduced prices for hybrid and electric vehicles. This requires the Original Equipment Manufacturers (“**OEM**”) to sell EVs at reduced prices to the customers. In return, these OEMs are reimbursed by way of incentives that are disbursed under FAME II. The benefits under FAME II are primarily applicable to public transport vehicles or the vehicles registered for commercial purposes under the 3-Wheeler, 4-Wheeler and electric Bus categories. FAME II also extends to privately owned and registered 2-Wheeler vehicles. The demand incentives are based on the battery capacity used in these vehicles. Broadly, FAME II offers the following demand incentives:

- All vehicles (including plug-in hybrid and strong hybrid vehicles) except electric Buses, are entitled to receive a uniform demand incentive at the rate of Rs. 15,000 per kWh subject to review by the Project Implementation and Sanctioning Committee (“**PISC**”) constituted under FAME II.
- Public transport such as electric Buses, are entitled to initial uniform maximum demand incentives at the rate of Rs. 20,000 per kWh subject to revision and competitive bidding among OEMs.
- The incentives under FAME II have been capped at 40% of the cost of vehicles, subject to annual review by PISC. Additionally, the incentives are only available to vehicles with an ex-factory price that is less than the threshold specified in the FAME II.

Disbursement of demand incentives for all segments, except electric Buses is undertaken through an e-enabled framework and mechanism set-up under the Department of Heavy Industry (“**DHI**”). The demand incentives are disbursed by considering the expenditure incurred on operations in accordance with the model adopted by state/city transport corporations and other public entities. It is imperative for the applicability of the incentives under FAME II that the vehicles are fitted with only advanced batteries and registered as Motor Vehicle as per the registration requirements specified under the Central Motor Vehicles Rules, 1989.

Incentives for Charging Infrastructure

FAME II requires that the charging infrastructure be established as per the “Charging Infrastructure for Electrical Vehicles- Guidelines and Standards, 2018”, as revised and replaced by the “Revised Consolidated Guidelines and Standards” of January 14, 2022 issued by the Ministry of Power (“**MoP**”) (“**Guidelines**”).⁶ FAME II provides that there must be one slow charger per electric Bus and one fast charger for every 10 electric Buses. Additionally, FAME II offers the flexibility of funding for the establishment of charging infrastructure to the extent of 100% of the cost depending upon the project proposal. FAME II also encourages inter-linking of renewable energy sources with charging infrastructure, smart grid, use of Information and Communication Technologies etc.

Ministry of Power Guidelines

The Guidelines aim to enable faster adoption of electric vehicles, affordable tariff charges from charging station operators, employment opportunities, support infrastructure, and promote energy security reduction. As per the Guidelines, any individual or entity is free to set up a public charging station(s) (“**PCS**”). They further provide specific conditions as well as incentives for a PCS - which

⁶ Charging Infrastructure for Electric Vehicles (EV)- the revised consolidated Guidelines & Standards, Ministry of Power (14th Jan., 2022) https://powermin.gov.in/sites/default/files/webform/notices/Final_Consolidated_EVCI_Guidelines_January_2022_with_ANNEXURES.pdf.

is an EV charging station where any EV can get its battery recharged and such PCS can obtain electricity from any generation company through open access.

The Guidelines mandate PCS to comply with the provisions of the Central Electricity Authority (Technical Standards for Connectivity of the Distributed Generation Resources) (Amendment) Regulations, 2019 and Central Electricity Authority (Measures relating to Safety and Electric Supply) (Amendment) Regulations, 2019. Each EV supply equipment must be type tested by an agency/lab accredited by National Accreditation Board for Testing and Calibration Laboratories from time to time. The above-mentioned requirements are not applicable to private charging points for self-use.

The Guidelines offer an incentive in form of promotional rate provisions for land. The land available with the Government/Public entities is to be provided for installation of PCS to the Government/Public entity on a revenue sharing basis for the installation of PCS at a rate of Rs. 1/kWh to be paid to the land-owning agency from such PCS business. The revenue sharing model can also be adopted by the public land-owning agency for providing land to a private entity for installation of PCS on bidding basis with floor price of Rs. 1/kWh. The format for revenue sharing agreement between the land-owning agency and charge point operator is attached in the Guidelines.

The tariff for the supply of electricity to the Public EV Charging Station is a single-part tariff and it cannot exceed the "Average Cost of Supply" till March 31, 2025. The same tariff is applicable for battery charging stations.

The tariff applicable for domestic consumption will be applicable for domestic charging. A separate metering arrangement will be made for PCS so that consumption may be recorded and billed as per the applicable tariff for EV charging stations. A separate metering arrangement is made for PCS so that the consumption may be recorded and billed as per the applicable tariff for EV Charging stations.

All the installed PCSs are required to pay the applicable surcharge equal to the current level of cross-subsidy (not more than 20 percent, as per the Tariff Policy Guidelines), transmission charges and wheeling charges.

The Guidelines also cover public charging infrastructure for long-range EVs and heavy-duty EVs, that is Fast Charging Stations ("**FCS**"). The FCSs are meant for 100% in-house or captive utilization, for example, electric Buses of a company. FCSs have the leverage to decide charging specifications as per the requirements of their in-house company EVs.

Production Linked Incentives

To boost the domestic manufacturing of EVs, the government has introduced Production Linked Incentives for EV automobile manufacturers as well as for EV charging infrastructure.

PLI for EV

The Production Linked Incentive scheme ("**PLI Scheme**") for automobile and auto components was notified on September 23, 2021, which, inter alia, extends to the production of EVs. The primary objective of the PLI Scheme is to incentivize the domestic production of advanced automotive technology. The PLI Scheme aims to offer incentives to battery electric vehicles under its Champion OEM Incentive Scheme. The eligible companies under the PLI Scheme are entitled to receive benefits starting from the Financial Year ("**FY**") 2022-23, for 5 consecutive FYs after the grant of approval but in no case beyond the FY ending March 31, 2027. For the determination of eligibility for incentives, sales of the applicant in FY 2019-20 would be taken as the base year for calculating the eligible sales value.

The Champion OEM Incentive Scheme extends 'sales value linked' incentives for battery electric vehicles of all segments to companies that are (i) Automotive OEM companies or their Group company/s; and (ii) new Non-Automotive Investor company or their Group company/s. The approved applicants are entitled to percentage benefits on Determined Sales Value⁷ upon fulfillment of the eligibility criteria set out under the PLI Scheme.

In order to receive benefits under the PLI Scheme, the pre-approved eligible product with minimum 50% domestic value addition are entitled to receive benefits under the PLI Scheme. Additionally, the threshold Determined Sales Value of Rs. 125 crores is required to be met in the first year, on which a 10% year-on-year minimum growth needs to be achieved by the investor companies. The eligible sales value in the base year for the approved New Non-Automotive Investor company (who is currently not in the automobile or auto component manufacturing business) is zero. The companies achieving a cumulative increase in Determined Sales Value of Rs. 10, 000 crores by the end of the duration of the PLI Scheme, becomes be entitled to receive an additional 2% incentive on sales made in excess of Rs. 10, 000 crores.

The PLI Scheme has clearly stipulated the yearly incentive payouts to be disbursed, subject to the sales/ market scenario. The total budget for the PLI Scheme, including administrative expenses, has been capped at Rs. 25,938 crores which is to be disbursed across a period of 5 years. Further, the maximum limit of incentive collectively for all companies qualifying as Group Company⁸ has been set as Rs. 6,485 crores. The incentives available under the PLI Scheme are independent of any incentives provided to the customers for the purchase of EVs or the incentives provided under FAME II.

PLI for Battery

The PLI scheme for Advanced Chemistry Cell Battery Storage notified on June 9, 2021 ("**ACC PLI Scheme**") intends to optimally incentivize potential investors, both domestic and overseas, to set-up Giga-scale Advanced Chemistry Cells ("**ACC**") manufacturing facilities with an emphasis on maximum value addition and quality output and achieving pre committed capacity level within a pre-defined time period. The ACC PLI Scheme does not offer any incentives to the conventional battery pack segment of the industry and covers only ACCs and integrated advance batteries (Single Units) that suffice the minimum performance specifications.

The ACC PLI Scheme aims to set up a cumulative ACC manufacturing capacity of 50 GWh for ACCs and an additional cumulative capacity of 5 GWh for Niche ACC Technologies (as defined in the ACC PLI Scheme). A total incentive of Rs. 18,000 crores will be disbursed to the entity (selected through a transparent quality and cost-based selection process) that have been allocated ACC production capacity (with cumulative capacity for all entities combined together 50 GWh). In addition to the 50 GWh of cumulative ACC capacity, 5 GWh of cumulative capacity would be offered to 'Niche' ACC technologies of higher performance with a minimum threshold capacity of 500 MWh.

Any manufacturing facility under this ACC PLI Scheme must be commissioned within a period of 2 years followed by disbursement of subsidy over a period of 5 years. Such amount of subsidy will be calculated as the subsidy amount per kilowatt hour multiplied by the percentage of value addition achieved during the period multiplied with actual sale of ACCs as specified in the request for proposal. The incentive will commence once the committed domestic value addition and actual sale of ACCs begins. The incentives offered in this ACC PLI Scheme do not restrict any other

⁷ Determined Sales Value is the incremental eligible sales of a particular year over the base year. Kindly refer: <https://pib.gov.in/PressReleasePage.aspx?PRID=1757651>.

⁸ Group Company(ies) mean(s) two or more enterprises which, directly or indirectly, are in a position to: (i.) exercise twenty-six percent or more of voting rights in the other enterprise; (ii.) appoint more than fifty percent of members of Board of Directors in the other enterprise. (As defined in the FDI Policy Circular of 2020). Kindly refer: <https://pib.gov.in/PressReleasePage.aspx?PRID=1757651>.

incentives to be claimed under FAME II or the PLI Scheme. However, the actual subsidy disbursement under this ACC PLI Scheme to the entities is capped at 20% of the ACC sale price on account of the sale of ACCs manufactured and sold by the entities during the subsidy disbursement period. The calculation of value addition methodology has been stipulated in the ACC PLI Scheme.

Other Measures

FAME, PLI Scheme, and ACC PLI Scheme are the primary measures by the Central Government to support and promote the EV sector. However, the following policies are also contributing to a cohesive legal framework for EVs.

GST reduction: To further incentivize, the Central Government reduced the GST rates applicable to EVs from 12% to 5% and that on EV charging infrastructure from 18% to 5%.⁹

PMP: The Central Government reduced and updated the basic customs duty (“**BCD**”) applicable on EVs and their parts or components through its notification of January 29, 2019.¹⁰ Thereafter, the MHIPE notified a Phased Manufacturing Programme (“**PMP**”) on March 06, 2019, to lay down a graded duty structure for EVs from different categories.

TPEM: The Department of Science and Technology and the DHI have set up a Technology Platform for Electric Mobility (“**TPEM**”) which will primarily focus on Research & Development and technology development for EVs.¹¹ It will receive proposals for setting up electric vehicle projects in the format specified by TPEM.¹²

Draft Policy on Battery Swapping: The Guidelines introduced the concept of battery swapping which has been further elaborated by the NITI Aayog in the Draft Policy for Battery Swapping for 2 and 3 Wheelers. The Draft Policy aims at promoting the swapping of batteries with ACC batteries to decouple battery costs from the upfront costs of purchasing EVs, thereby promoting EV adoption.¹³ The policy stipulates the minimum technical and operational requirements that the battery swapping ecosystem needs. It highlights the possible ways in which various national and sub-national government agencies and public sector enterprises can provide direct and indirect financial support to battery providers (for the cost of batteries) and EV users (for the upfront cost of purchasing EVs) with the aim of driving EV adoption by lowering the costs of EVs for users, relative to Internal Combustion Engines vehicles.

A battery provider will be entitled to receive subsidies, provided the battery swapping ecosystem that it represents meets the technical and operational requirements. This draft policy clarifies the modalities of the subsidies in a way that balances benefits to recipients with ease of implementation.

No License for EVs: A clarification was issued by the MoP under the provisions of the Electricity Act, 2003 that during the activity of charging the battery for use in EVs, the charging station does not perform any of the activities namely transmission, distribution, or trading of electricity, which require a license under the Electricity Act 2003, hence the charging of batteries of EVs through charging station does not require any license.¹⁴

⁹ PIB, *GST rate on all Electric Vehicles reduced..* (27th Jul., 2019), <https://pib.gov.in/newsite/PrintRelease.aspx?relid=192337>.

¹⁰ Notification No. 03/2019-Customs, Ministry of Finance (29th Jan., 2019).

¹¹ F.No. 12(27)/2015-AEI (FAME-TAG), Ministry of Heavy Industries and Public Enterprises (1st Feb., 2016).

¹² Project Proposal under DHI- TPEM, <https://dst.gov.in/sites/default/files/TPEM%20Format.pdf>.

¹³ Draft Battery Swapping Policy (20th Apr., 2022), https://www.niti.gov.in/sites/default/files/2022-04/20220420_Battery_Swapping_Policy_Draft.pdf.

¹⁴ No. 23/08/2018-R&R, Ministry of Power (13th Apr., 2018).

In another positive step, the Ministry of Road Transport and Highways had notified on October 18, 2018, that the permit required under Section 66(1) of the Motor Vehicles Act, 1988 would not apply to a Battery-Operated Vehicles defined under Rule 2(u) of the Central Motor Vehicles Rules, 1989, vehicles driven on Methanol fuel and vehicles driven on ethanol fuel.

Model Building Byelaws: Further, the Ministry of Housing and Urban Affairs brought the amendment to Model Building Bye-Laws (“**MBBL-2016**”) for Electric Vehicle Charging Infrastructure. As per MBBL-2016, residential and commercial spaces will have to allot at least 20% of their parking area for EV charging infrastructure. Such building premise will have an additional power load, equivalent to the power required for all charging points. For private ownership of the station, slow chargers with AC mode of charging are allowed and for any PCS, the minimum requirements have been specified by the MoP. Any installed PCS is required to have one or more electric kiosk/boards with the installation of all charger models as prescribed by the MoP.

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