IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

**APPEAL No.E/70156,70157,70158,70159,
70160,70287,70288,70289/2018-EX[DB]**

(Arising out of Order-in-Appeal No.NOI-EXCUS-001-APP-1329 to 1336-17-18 dated 26/10/2017 passed by Commissioner (Appeals), Central Goods & Service Tax, Noida)

M/s Kesar Enterprises Ltd. **...Appellant**

Vs.

Commissioner, Central Excise, Noida **...Respondent**

Appearance:
Shri Kapil Vaish (C.A.) for Appellant
Shri Rajeev Ranjan, Additional Commissioner (AR), for Respondent

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing/ Decision : 16/01/2019

FINAL ORDER NOs.**70116-70123 / 2019**

Per: Archana Wadhwa

All the appeals are being disposed of by a common order as they arise out of the same impugned order.

2. The short issue involved in all the appeals is as to whether the various iron and steel items as also welding electrodes used for repairing and maintenance of plant and machinery are cenvatable or not.

3. Learned Advocate fairly agrees that the issue stands decided against them in their own case by the Hon'ble Allahabad High Court decision reported as Commissioner of

Customs & Central Excise V/s Kesar Enterprises Ltd. reported as 2016 (344) E.L.T. 809 (All.) and also in M/s Kesar Enterprises Ltd. V/s Commissioner of Customs, Central Excise & Service Tax reported at 2017 (350) E.L.T. 223 (All.), laying down that the said items are not cenvatable. Further, he submits that the said order have been challenged by them before the Hon'ble Supreme Court and are pending decision. He fairly agrees that there is no stay of operation of said orders by the Hon'ble Supreme Court.

4. Inasmuch as the issue stands decided by the Hon'ble Allahabad High Court in the above referred decision, we follow the same and reject the appeals on the said issue.

5. Learned advocate further submits that there are denial of credit in respect of input services but Commissioner (Appeals) have not given any finding for the same. In view of the above, we remand the matter to Commissioner (Appeals) for reconsideration of availability of credit on input services.

6. In view of the forgoing the appeals are partially rejected and partially remanded.

(Pronounced & Dictated in Court)

Sd/-	Sd/-
(Anil G. Shakkarwar)	**(Archana Wadhwa)**
Member (Technical)	**Member (Judicial)**

Nihal