

Jayachandra Reddy, Son of Mr S. Nagi Reddy and 2) Mr. P.H. Dayananda, Son of P. K. Huchanna, by virtue of an absolute Sale Deed dated 26/02/2014, Registered as Document No.8764/13-14, in Book I, stored in CD No.INRD87, in the Office of the Sub-Registrar, Indiranagar, Bangalore.

3. The long term capital gain (LTCG) on sale of the aforesaid property was invested by the assessee in REC bonds and in capital gains account and later on the amounts from the capital gain account was utilized for construction of residential house at HAL II Stage, Bengaluru. In computing LTCG the assessee claimed deduction u/s.54(1) of the Act. There is no dispute between the Revenue and the assessee with regard to utilization of LTCG as above. The provisions of section 54(1) of the Act reads as follows:

*“54[1] Subject to the provisions of sub-section (2), **where, in the case of an assessee being an individual or a Hindu undivided family, the capital gain arises from the transfer of a long-term capital asset being buildings or lands appurtenant thereto, and being a residential house**, the income of which is chargeable under the head —Income from house property” (hereafter in this section referred to as the original asset), and the assessee has within a period of [one year before or two years after the date on which the transfer took place purchased], or has within a period of three years after that date [constructed, one residential house in India], then], instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say”,.....—*

4. The AO issued a notice dated 20.09.2016 under section 143(1) of the Act calling upon the assessee to explain the deduction claimed under section 54(1) of the Act. The assessee vide his reply dated 29.09.2016 explained that the property that was sold during the relevant previous year, originally was a larger extent of land measuring 17838 sq.ft. + 4315 sq.ft. The assessee pointed out that the assessee constructed 750 sq.ft. building over the larger extent in the year 1996 and that the Katha of the property was also transferred